

# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
September 16, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
  - 1. September 2, 2015 LOC Meeting Minutes
- III. Current Business**
  - 1. Community Support Fund Policy Amendments
  - 2. Furlough Policy
  - 3. Removal Law Amendments
  - 4. Administrative Rulemaking Law
  - 5. Garnishment Ordinance Amendments
  - 6. Oneida Higher Education Scholarship
  - 7. Per Capita Law Amendments
  - 8. Public Use of Tribal Land Amendments
  - 9. Rules of Civil Procedure Amendments
  - 10. Tribal Hearing Bodies
- IV. New Submissions**
  - 1. Domestic Animals Law Amendments
  - 2. Legislative Procedures Act Amendments
- V. Additions**
- VI. Administrative Updates**
  - 1. LOC Priority List
- VII. Executive Session**
- VIII. Recess/Adjourn**

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## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

September 2, 2015 9:00 a.m.

**PRESENT:** Brandon Stevens, Tehassi Hill, Fawn Billie, Jennifer Webster

**EXCUSED:** David P. Jordan

**OTHERS PRESENT:** Douglass McIntyre, Krystal John, Candice Skenandore, Taniquelle Thurner, Rae Skenandore, Tamara Vanschyndel, Fawn Cottrell, Rhiannon Metoxen, Danelle Wilson.

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

Brandon Stevens called the September 2, 2015 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda; seconded by Fawn Billie. Motion carried unanimously.

### II. Minutes to be approved

#### 1. August 19, 2015 LOC Meeting Minutes

Motion by Fawn Billie to approve the August 19, 2015 LOC meeting minutes; seconded by Jennifer Webster. Motion carried unanimously.

### III. Current Business

#### 1. Oneida Flag Policy (01:00 - 03:42)

Motion by Jennifer Webster to forward the current draft and analysis of the Oneida Flag Policy for a public meeting to be held on October 1, 2015; seconded by Fawn Billie. Motion carried unanimously.

#### 2. Community Support Fund (03:43 - 04:56; 50:16 – 52:23 )

Motion by Jennifer Webster to forward the current draft of the Community Support Fund (Policy) for the required analyses; seconded by Fawn Billie. Motion carried unanimously.

#### 3. ONGO Amendments (04:57 -50:15)

Motion by Jennifer Webster to forward the ONGO amendments materials to the Oneida Business Committee to consider adoption with the noted revision to the adopting resolution; seconded by Tehassi Hill. Motion carried unanimously.

### IV. New Submissions

#### 1. Business Committee Meetings Law (52:23 – 56:28)

Motion by Jennifer Webster to add the Business Committee Meeting Law to the active files list; seconded by Tehassi Hill. Motion carried unanimously.

*Note: Brandon Stevens will be the Sponsor for this item.*

**V. Additions**

**VI. Administrative Updates**

**1. LOC Standard Operating Procedures: Drafting (56:28 – 01:09:07)**

Motion by Jennifer Webster to accept the updated approved LOC Standard Operating Procedures: Drafting as information; seconded by Fawn Billie. Motion carried unanimously.

**2. LOC Standard Operating Procedures: General (01:09:07 – 01:09:29)**

Motion by Jennifer Webster to accept the updated approved LOC Standard Operating Procedures: General as information; seconded by Fawn Billie. Motion carried unanimously.

**3. Quarterly Report (01:09:30 – 01:25:59 )**

Motion by Jennifer Webster to accept the LOC's Quarterly Report and forward it to the Business Committee; seconded by Fawn Billie. Motion carried unanimously.

Motion by Jennifer Webster to direct the Legislative Reference Office to create a priority report list with deadlines and to bring it back to the September 16, 2015 LOC meeting; seconded by Tehassi Hill. Motion carried unanimously.

**VII. Executive Session**

**VIII. Recess/Adjourn**

Motion by Fawn Billie to adjourn the September 2, 2015 Legislative Operating Committee Meeting at 10:26 a.m.; seconded by Tehassi Hill. Motion carried unanimously.



# Legislative Operating Committee

## September 16, 2015

# Community Support Fund

## Policy Amendments

**Submission Date:** 6/25/15

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** David P. Jordan

**Summary:** *This item was brought forward to add language found in BC Resolution 12-11-13-D into the policy to clarify that someone who receives assistance from the Fund program does not have to cost share if they are at or below the federal Poverty Guidelines.*

- 7/1/15 LOC:** Motion by David P. Jordan to add the Community Support Fund Policy Amendments to the active files list; seconded by Tehassi Hill. Motion carried unanimously.
- 7/22/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Item deferred to the next regular Business Committee meeting.
- 8/12/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Item sent to a Business Committee special meeting agenda at the adjournment of the meeting.
- 8/17/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Motion by Jennifer Webster to direct the requested changes to the Community Support Fund Policy to the Legislative Operating Committee and for proposed changes due back to the September 23, 2015 regular Business Committee meeting, seconded by David Jordan. Motion carried with one opposed and one abstention.
- 9/2/15 LOC:** Motion by Jennifer Webster to forward the current draft of the Community Support Fund (Policy) for the required analyses; seconded by Fawn Billie. Motion carried unanimously.

**Next Steps:**

- Forward the update memorandum and draft to the OBC.



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Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

**Memorandum**

**TO:** Oneida Business Committee  
**FROM:** Brandon Stevens *BS*  
**DATE:** September 23, 2015  
**RE:** Community Support Fund Policy Amendments

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On June 25, 2015, an agenda request form was submitted to the Legislative Operating Committee (LOC) to amend the Community Support Fund Policy. At a LOC meeting on July 1, 2015, the LOC added Community Support Fund Policy Amendments to the active files list with David P. Jordan as sponsor. Since being added to the active files list, the Legislative Reference Office has reached out to the operators of the Fund for suggested amendments to the Policy. On September 2, 2015, the LOC sent the attached Draft #1 for the required fiscal and legislative analyses.

A legislative analysis is required before an item can be forwarded to a public meeting under 6.7-1(a) of the Legislative Procedures Act. It is expected that the item will be brought back to the LOC at the October 7, 2015 meeting to request a public meeting date of October 29, 2015.

**Requested Action**

Accept the memorandum regarding the status of the Community Support Fund Policy Amendments as FYI.

## Community Support Fund Policy

Article I. Purpose and Policy

Article II. Adoption, Amendment, Repeal

Article III. Definitions

Article IV. ~~Social~~ Economic Support Services  
Responsibilities; Eligibility and Qualifications

Article V. Priorities for Consideration

Article VI. Items Covered by the Fund

Article VII. Items not ~~e~~Covered by the Fund

Article VIII. Application Requirements

Article IX. Appeal

### Article I. Purpose and Policy

1-1. Purpose. The purpose of this Policy is to assist the greatest number of Tribal members of the Oneida Tribe of Indians of Wisconsin who apply for assistance to the Community Support Services Fund in times of a ~~e~~Catastrophic event, illness, ~~or~~ injury or emergency event when no other resources for assistance exist.

1-2. Policy. It is the policy of the Oneida Tribe of Indians of Wisconsin to assist their people in a time of need after a ~~e~~Catastrophic event, illness, ~~or~~ injury or emergency event, when there is no other assistance available or all other assistance has been exhausted.

### Article II. Adoption, Amendment, Repeal

2-1. This Policy is adopted by the Oneida Business Committee by resolution # BC-5-15-96-A, amended by resolution # BC-01-08-97-G, and amended by resolution #BC-\_\_\_\_\_.

2-2. This Policy may be amended or repealed by the Oneida Business Committee and/or the Oneida 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 portion(s).

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 article shall govern the definitions of words and phrases used within this policy. All words not herein defined shall be used in their ordinary and everyday sense.

(a) "Applicant" ~~shall~~ means the person applying for assistance for themselves is an enrolled Tribal Member or the application is on behalf of another person who is a Tribal Member otherwise unable to do so due to age or incapacity.

(b) "Business Days" ~~shall~~ means Monday through Friday 8:00 a.m. to 4:30 p.m., except for recognized holidays as listed on the official calendar of the Tribe.

(c) "Case Manager" ~~shall~~ means the employee of the Social Services Area responsible for administering Community Support Services Fund benefits according to the established guidelines set forth below.

(d) "Catastrophic event" ~~shall~~ means a natural or man-made incident, which results in substantial damage or loss requiring major financial resources to repair or recover (i.e. house fire, tornado, flood, or other disaster).

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(e) “Catastrophic illness or injury” ~~shall~~means a serious debilitating illness, injury, impairment, or physical or mental condition that involves:

(1) in-patient care; or

(2) a period of continuing treatment due to a chronic serious health condition (~~such as chemotherapy/radiation, dialysis, daily/weekly therapy resulting from trauma~~asthma, diabetes, epilepsy, etc.); or

(3) a period of illness or injury that is long-term due to a condition for which treatment may be ineffective (stroke, terminal disease, etc.); or

(4) receipt of multiple treatments either for restorative surgery after an accident or other injury, or for a chronic condition. (i.e. cancer or kidney disease)

~~(f) “Cost share” shall mean the request to have the applicant agree to contribute to the cost of the assistance given.~~

~~(g)~~ (f) “Emergency event” ~~shall~~means a situation that poses an immediate risk to health, life, safety, property or environment. Emergencies require urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

~~(h)~~ (g) “Emergency medical travel” ~~shall~~means an unexpected serious health situation or occurrence, requiring the immediate presence of immediate family. (i.e., end of life situation, life support, etc.)

~~(i)~~ (h) “Fund” ~~shall~~means the Community Support Services Fund.

~~(j)~~ (i) “Immediate family” ~~shall~~means that group of persons who make up a family unit normally defined as husband, wife, children, sister, brother, in-laws, step family, grandparents and grandchildren, and/or a person who has ~~Legal~~ Responsibility for a member of their immediate family.

~~(k)~~ (j) “Legal guardian” ~~shall~~means a person who has the legal authority to care for the personal and property interests of another person granted through Court order.

~~(l)~~ (k) “Legal Responsibility” ~~shall~~means specific duties imposed upon a person to care or provide for another including liability for personal obligations as granted through a Power of Attorney or Court order.

~~(m)~~ (l) “Major medical surgery” ~~shall~~means a surgical procedure that carries a degree of risk to the patient’s life, or the potential for severe disability if something goes wrong during surgery. It is a surgical procedure that usually requires a patient to be put under general anesthesia and given respiratory assistance because he or she cannot breathe independently.

~~(n)~~ (m) “Reservation” ~~shall~~means all the lands and waters 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.

~~(o)~~ (n) “Severity” ~~shall~~means the verified rate or level of need.

~~(p)~~ (o) “Shelter” ~~shall~~means mortgage payments or rent payments.

~~(q)~~ (p) “Tribal or Tribe” ~~shall~~mean the Oneida Tribe of Indians of Wisconsin.

~~(r)~~ (q) “Verification” ~~shall~~means the evidence or proof that confirms the accuracy or truth of the alleged catastrophic event, illness, ~~or~~ injury or emergency event and of Tribal membership (i.e., estimates, photographs, doctor statements/report, check stubs, tribal

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identification card/letter, etc.).

#### Article IV. ~~Social Services~~Economic Support Services Responsibilities; Eligibility and Qualifications

4-1. The ~~Social Services Area~~Economic Support Services of the Governmental Services Division shall create and administer the Fund.

(a) The ~~Social Services Area~~Economic Support Services shall create standard operating procedures for the administration of the Fund. The standard operating procedures ~~shall~~ must include the list of categories the Fund covers and a cap that set the amount of assistance per event/ per household, except for funeral expenses which ~~shall~~ will be set per event/ per person.

(b) The Governmental Services Division Director shall report semi-annually to the Oneida Business Committee. The report ~~shall~~ must include, the amount of Funds paid out under each category.

(c) The Social Services area shall ensure that the Tribal membership is informed of what assistance is available through the Fund, how to apply for assistance, and specify who is eligible for assistance.

4-2. Eligibility for assistance provided under the Fund is reserved for enrolled Tribal members. Applications may be made by a non-Tribal parent or ~~L~~guardian on behalf of ~~an enrolled~~ Tribal member, ~~or minor eligible for enrollment,~~ provided the requested Funds will benefit the Tribal member or child of the applicant only.

4-3. Residency within the State of Wisconsin is not a prerequisite for assistance, except for requests for a security deposit in Section 6-2.

4-4. The Fund is a fund of last resort and provides assistance when there is no other financial assistance available. ~~(a) Applicants will be asked to contribute a percentage of the assistance being requested. (b)~~ Applicants shall first seek out other resources that can meet the needs of their request. Proof of requesting assistance from other sources ~~shall~~ must be provided with the application.

4-5. The following types of catastrophic events, illnesses or injuries qualify an applicant for assistance:

- (a) Terminally ill
- (b) Physically challenged or incapacitated
- (c) Major medical surgery
- (d) Life threatening (i.e. Cancer, AIDS, Stroke, disabling injuries due to motor vehicle accident, etc.)
- (e) Natural disaster (i.e. Tornado, fire, flood, etc.)
- (f) Death in immediate family

4-6. A Case Manager reserves the right to deny or limit benefits to applicants who have elected not to be covered by employer benefits such as disability or health insurance.

4-7. All payments ~~shall~~ must be provided directly to the service provider. However, funeral travel ~~shall~~ must be reimbursed to the applicant.

4-8. Assistance available under the Fund is subject to change according to fiscal year funding levels.

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4-9. Tribal Programs and Enterprises are not eligible for these funds.

## Article V. Priorities for Consideration

5-1. The Case Managers shall determine the level of assistance to be provided based on:

- (a) Severity of event, illness, ~~or~~ injury or emergency event
- ~~(b) Ability of applicant to cost share~~
- ~~(c)~~ Cost (usual and customary fees)
- ~~(d)~~ Amount of time elapsed since catastrophic event, illness, ~~or~~ injury or emergency event occurred
- (d) The Fund's appropriate standard operating procedures

5-2. The Case Manager shall assess each individual case, prioritize and assist with immediate needs. Priorities are as follows:

- (a) Life-threatening emergency requests
- (b) Emergency medical travel
- (c) Other needs

## Article VI. Items Covered by the Fund

6-1. Requests for assistance from the Fund must be tied to or be a result of a catastrophic event, illness, ~~or~~ injury or emergency event that requires urgent intervention to prevent further illness, injury, death, or a worsening of the situation. Upon verification of a catastrophic event, illness, ~~or~~ injury or emergency event, the Fund may be used for the following:

- (a) ~~Health insurance, including~~ COBRA Insurance Payments
- (b) Prescriptions not available through an IHS Clinic
- (c) Medical transportation/emergency medical travel including vehicle repairs
- (d) ~~Rental of medical equipment~~ Medical-related equipment, supplies, or furniture, but must use rental equipment, supplies, or furniture when available
- (e) Medical bills (dental, optical, hospital) not covered by insurance
- (f) Shelter and utilities where no other resources exist (including security deposits)
- (g) Utility disconnections
- (h) Inpatient Treatment (with a limit of once per lifetime)
- (i) Fire recovery/natural disaster assistance
- (j) Home renovations required for handicap accessibility (if written authorization from the landlord)
- (k) Family Medical Leave Act Wage Replacement
- (l) Social Security Disability Determination rent/utility assistance (with a maximum of 12 months per lifetime)

6-2. Requests for assistance for a security deposit ~~shall~~ will be tied to or be a result of, a catastrophic event, illness ~~or~~ injury or emergency event and are limited to Tribal members who are Wisconsin residents only.

- (a) The Tribal member shall demonstrate the ability to fulfill the terms of the rental lease. The Fund does not co-sign any lease.
- (b) Security deposits are non-transferable and the amount paid for a security deposit ~~shall~~ must be paid back to the Fund Program before another security deposit is issued at any



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time in the future.

(c) Only one request per household will be considered.

(d) Security deposits shall be issued on an emergency basis which shall include, but is not limited to, pending eviction and homelessness.

6-3. Requests for assistance for the payment of utilities shall only be allowed once every ~~three (3)~~two (2) years by the person listed as responsible to pay with the utility company. ~~Those who receive assistance in paying their utilities shall cost share those expenses by paying back fifty percent (50%) of the funds received within four (4) months. If those funds are not reimbursed to the fund by the required date, the Community Support Program may garnish the individual's per capita payments. Utility assistance is a one-time lifetime payment not to exceed a maximum of three hundred dollars (\$300.00) and applicant must have made payments in each of the previous three (3) months.~~

6-4. Travel expenses to arrange or attend a funeral for immediate family members outside the State of where an applicant resides ~~shall~~must be paid by the applicant first, and the Fund shall reimburse those applicants for mileage, lodging, or airfare expenses up to a maximum amount of five hundred dollars (\$500).

#### **Article VII. Items not eCovered by the Fund**

7-1. The Fund does not cover payments that are not for a catastrophic event, illness, ~~or~~ injury or emergency event as defined above. The following is a list of items not covered by the Fund; however, this is not an exhaustive list:

- (a) Car payments
- (b) Taxes
- (c) Credit card or Charge accounts
- (d) Commercial loans
- (e) Defaults/fines/bankruptcy charges
- (f) Expenses not tied to basic needs (Cable, internet, memberships, etc.)
- (g) Legal fees/court costs/judgments
- (h) Appliance Repair/Replacement
- (i) Homeless lodging assistance
- (j) Stabilization rent assistance
- (k) Department of Correction re-entry assistance
- (l) Health membership fees
- (j) Food and personal care items

7-2. The Fund reserves the right to deny or limit benefits if evidence is found regarding the applicant as to the following:

- (a) The catastrophic event, illness, ~~or~~ injury or emergency event is the result of a violation of the law— as proven by a citation or criminal conviction.
- (b) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of other tribal programs, policies or laws (i.e. Zoning, etc.)
- (c) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of the Fund.

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If the Fund chooses to approve, deny, or limit benefits under this section, an explanation of the decision ~~shall~~must be in writing and provided to the applicant with a copy placed in the Fund's file.

## **Article VIII. Application Requirements**

8-1. To be considered for assistance and before receiving assistance the applicant must complete the full application process. All applicants shall cooperate with the Case Manager to assist the Case Manager in comprehensively addressing the needs of the applicant(s).

8-2. Supporting documentation ~~shall~~must be required in all cases. The applicant is responsible to provide all documentation requested by the Case Manager.

(a) No assistance ~~shall~~may be provided without sufficient documentation of the catastrophic event, ~~or~~ illness, ~~or~~ injury or emergency event as requested by the Case Manager.

(b) No assistance ~~shall~~may be provided without sufficient documentation that the applicant sought assistance from other agencies with an explanation of benefits received or refusal of assistance by the other agencies.

(c) No assistance will be provided without verification of enrollment in the Tribe

(d) No assistance will be provided without all household income verification for last thirty (30) days from date of submission of application

8-3. Documentation includes, but is not limited to:

- (a) Medical reports
- (b) Bills or statements
- (c) Estimates
- (d) Letters
- (e) Police or fire reports
- (f) Obituary or formal notice of death
- (g) Check stubs
- (h) Pictures or photographs
- (i) Applications for assistance from other agencies
- (j) Approval of assistance or denial of assistance letters from other agencies

8-4. Verification of status of employment is required and includes the following documentation:

- (a) Leave of absence paperwork
- (b) Balance of personal and vacation time accumulation
- (c) Disability insurance or workmen's compensation coverage
- (d) Check stubs

8-5. Requests submitted without supporting documentation ~~shall~~must be kept on file for thirty (30) ~~B~~Business ~~d~~Days.

(a) A request for additional information by a Case Manager ~~shall~~must be made when an application contains insufficient information to make an informed decision.

(b) Applicants may deliver, scan, fax, mail, or e-mail additional requested information.

(c) Failure to submit the requested information within the thirty (30) ~~B~~Business ~~d~~Days will result in closing the application file, with no further action taken in regard to that application.

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(d) Applicant ~~shall~~must be sent a notice that the file has been closed and reason(s) for the file being closed.

(e) After the file is closed, the applicant ~~shall~~must start the application process over again in order to be considered for assistance from the Fund. However, no applicant may re-apply for the same catastrophic event, illness, ~~or~~injury or emergency event more than the limit stated within the Policy or the Fund's standard operating procedures. ~~twice.~~

8-6. Application for assistance ~~shall~~must be made within a reasonable time period, not to exceed thirty (30) business days of a catastrophic event or illness, ~~or~~injury or emergency event. Applications made after thirty (30) ~~b~~Business ~~d~~Days ~~shall~~will not be considered.

## **Article IX. Appeal**

9-1. An appeal of the Case Manager's decision shall be made to the Case Manager's supervisor. If the supervisor upholds the decision, it may then be appealed to the Area Manager of the Social Services Division. If the decision is upheld by the Area Manager, the decision may be appealed as a final decision to the Judiciary.

*End.*

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Adopted - BC-5-15-96-A

Amended - BC-1-8-97-G

Amended- BC-12-11-13-D





# Legislative Operating Committee

## September 16, 2015

### Furlough Policy

**Submission Date:** October 15, 2014

☒ Public Meeting: 02/05/15  
☐ Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *During the prior term, the OBC adopted a policy on an emergency basis that set out a process allowing tribal employees to be furloughed as a cost-containment measure. The emergency adoption/extension expired on October 15, 2014, however on October 8, 2014, the OBC directed the LOC to continue developing a permanent policy that allowed for furloughs.*

**09/17/14 LOC:** Motion by Jennifer Webster to not add the Furlough Policy Emergency Adoption to the Active Files List and to provide the Oneida Business Committee a memo stating that it is the intent of the Legislative Operating Committee to let the emergency adoption expire; seconded by Tehassi Hill. Motion carried unanimously.

**10/8/14 OBC:** Motion by Lisa Summers to accept the Legislative Operating Committee update with the following answers:  
 3) With regard to the Furlough Policy, the Business Committee agrees that the LOC should move forward with the development of a permanent policy.  
 seconded by Trish King. Motion carried unanimously.

**10/15/14 LOC:** Motion by Jennifer Webster to add the Furlough Policy to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

*Note: Fawn Billie will be the sponsor for this item.*

**12/03/14 LOC:** Motion by Jennifer Webster to direct that a fiscal impact statement and a legislative analysis be conducted on the Furlough Policy; seconded by Fawn Billie. Motion carried unanimously.

**1/15/15 LOC:** Motion by Jennifer Webster to approve the public meeting date of January 29, 2015 regarding the Furlough Policy; seconded by Tehassi Hill. Motion carried unanimously.

**1/21/15 LOC:** Motion by Jennifer Webster to ratify the Furlough Policy and Rules of Appellate Procedures Amendments Public Meeting Date E-poll; seconded by Tehassi Hill. Motion carried unanimously.

**2/5/15:** Public meeting held.

**3/4/15 LOC:** Motion by Jennifer Webster to accept the Furlough Policy public meeting comments and defer those comments to an LOC work meeting to be held immediately following the completion of this LOC meeting, seconded by Fawn Billie. Motion carried unanimously.

Work meeting held, attendees include: Brandon Stevens, Tani Thurner, Jennifer Webster, Jo Anne House, Tehassi Hill, Fawn Billie, Lynn Franzmeier, Candice Skenandore, Fawn Cottrell, Danelle Wilson, Rae Skenandore

**04/15/15 LOC:** Motion by Jennifer Webster to defer the Furlough Policy for two weeks for the noted considerations, minor changes, and a fiscal analysis; seconded by Fawn Billie. Motion carried unanimously.

**5/6/15 LOC:** Motion by Jennifer Webster to direct the Legislative Reference Office to make final changes to the Furlough Policy and bring back when ready; seconded by David P. Jordan. Motion carried unanimously.

**Next Steps:**

- Review the changes to the draft and determine if the changes are substantial enough that another Public Meeting is required.
- Consider sending the Oneida Business Committee for adoption.

## **Furlough Policy**

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Furlough

Article V. Furlough Plans  
Article VI. Supervisor Responsibilities  
Article VII. Appeal

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### **Article I. Purpose and Policy**

1-1. *Purpose.* The purpose of this Policy is to enable the Tribe to implement a furlough as a tool to remedy an operating budget deficit.

1-2. *Policy.* This Policy shall apply to all employees of the Tribe. To utilize a furlough, a decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid leave shall be identified.

### **Article II. Adoption, Amendment, Repeal**

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC \_\_\_\_\_.

2-2. This Policy may be amended or repealed by the Oneida Business Committee 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 Article shall govern the definitions of words or phrases as used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "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 and political appointees, but does not include elected or appointed officials.

(b) "Furlough" shall mean a temporary, unpaid leave from work for a specified period of time.

(c) "General Manager Level position" shall mean the highest level in the chain of command under the Oneida Business Committee and who is responsible for a Tribal Department and/or Division.

(d) "Supervisor" shall mean a person who directly oversees the work and performance of an employee on a daily basis.

(e) "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

### **Article IV. Furlough**

4-1. *Furlough Resolution.* If the Oneida Business Committee has identified the necessity for a furlough, a directive by resolution shall be given to the appropriate General Manager Level positions. The resolution shall direct the beginning and ending dates of the furlough.

Draft 5 redline to Public Meeting Draft

4-2. *Implementation of Furlough Plans.* Upon the passage of a resolution directing that a furlough be implemented, all General Manager Level positions shall immediately carry out the furlough plans for his or her respective departments or agencies. An employee shall be furloughed on days that the employee is normally scheduled to work or on holidays recognized by the Tribe, whether the employee is normally scheduled to work or not.

4-3. *Notice.* A supervisor shall give an employee notice at least five (5) business days prior to a furlough being implemented for his or her position.

4-4. *Continuous Service.* A furlough shall not constitute a break in continuous service. Employees shall not perform any work for the Tribe while furloughed. This includes responding to work-related e-mail and voice mail, as well as traveling on behalf of the Tribe.

4-5. *Unemployment.* ~~Eligibility for unemployment insurance benefits is determined by the State of Wisconsin.~~ Furloughed employees shall be responsible for contacting the State of Wisconsin Department of Workforce Development to determine if they qualify for unemployment insurance benefits. Eligibility for unemployment insurance benefits is determined by the State of Wisconsin.

4-6. *Benefits.* Employees shall not use or accrue personal or vacation time when on furlough. Employees shall continue to receive other benefits during a furlough ~~in the same manner as an employee on an unpaid leave of absence receives benefits.~~

4-7. *Overtime and Additional Duty Pay.* When a furlough is implemented in a department or agency, no employee in that department or agency shall be eligible for:

- (a) overtime during the same pay period that another employee from the same department or agency is on furlough; or
- (b) additional duty pay for performing duties for other employees in his or her department or agency who are on furlough.

4-8. ~~Discipline. Furloughs shall not be used for disciplinary reasons.~~

~~4-9.~~ *Back Pay.* Employees on furlough shall not be eligible for back pay awards upon return to work.

## **Article V. Furlough Plans**

5-1. *Furlough Plans.* The General Manager Level positions shall develop furlough plans for their respective departments and agencies.

5-2. The furlough plans shall set forth how each department or agency intends to implement a furlough. The plan shall include, but not be limited to, the following:

- (a) an explanation of how employees will be selected;
  - (1) Temporary employees shall be furloughed first, followed by employees who volunteer to be furloughed. All other employees shall then be eligible to be furloughed.
- (b) a tentative schedule for a furlough;
  - (1) Furloughs shall be scheduled in a way that allows the departments to continue to provide a basic level of service.
- (c) the estimated number of employees affected; and
- (d) a summary of how the furlough will relieve budgetary shortfalls.

(e) Furloughs shall not be used for disciplinary reasons

5-3. All furlough plans shall be kept on file with the Human Resources Department.

Draft 5 redline to Public Meeting Draft

**Article VI. Supervisor Responsibilities**

6-1. Upon notification from the appropriate General Manager Level position that furloughs are necessary, a supervisor shall:

- (a) Identify those employees who will be furloughed.
- (b) Notify those employees that they will be furloughed and their furlough dates;
- (c) Notify the Human Resources Department of the chosen employees and their furlough dates.

**Article VII. Appeal**

7-1. *Right to Appeal.* An employee who has been furloughed does not have the right to appeal such a decision under any Tribal law, policy or the personnel grievance process.

*End.*

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Emergency Adoption – BC-10-15-13-A  
 Emergency Adoption Extension BC-04-09-14-D

# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**TO:** Oneida Business Committee  
**FROM:** Brandon Stevens *BS*  
**DATE:** September 23, 2015  
**RE:** Furlough Policy

---

Please find attached the following for your consideration:

1. HRD Standard Operating Procedures
2. Resolution: Adoption of the Furlough Policy
3. Statement of Effect: Adoption of the Furlough Policy
4. Fiscal Impact Statement: Furlough Policy
5. Furlough Policy (analysis)
6. Furlough Policy (clean)

### Overview

During the prior term, the Oneida Business Committee (OBC) adopted a furlough policy as emergency legislation that set out a process allowing Tribal employees to be furloughed as a cost-containment measure. The emergency adoption/extension expired on October 15, 2014; however, on October 8, 2014, the OBC directed the Legislative Operating Committee to continue developing a permanent policy that allowed for furloughs.

### The Furlough Policy:

- Grants the OBC the ability to authorize a furlough period through resolution.
- Requires General Manager-level positions to develop furlough plans for their areas.
- Prohibits furloughs from being used for disciplinary reasons.

A public meeting on the proposed Furlough Policy was held on February 5, 2015 in accordance with the Legislative Procedures Act. The comments from that meeting were received and considered by the Legislative Operating Committee on March 4, 2015.

### Requested Action

Approve the Resolution: Adoption of the Furlough Policy.

<b>ONEIDA TRIBE OF WISCONSIN STANDARD OPERATING PROCEDURE</b>	<b>TITLE: Tribe-wide Furlough and Non- Furlough Options</b>	ORIGINATION DATE: July 13, 2015 REVISION DATE:  EFFECTIVE DATE: After last signature
AUTHOR: HRD	APPROVED BY:	DATE:
DEPARTMENT: All	APPROVED BY: <i>HRD Manager</i>	DATE:
DIVISION: All	COMPLIANCE REVIEW BY: <i>EEO</i>	DATE:
EEO REFERENCE NUMBER:		
PAGE NO: 1 of 4		

## 1.0 PURPOSE

- 1.1 To provide guidance and direction for management when the Business Committee deems furloughs necessary.

## 2.0 DEFINITIONS

- 2.1 Essential position – Position(s) identified by the General Manager Level position or Designee as being critical in meeting the goals, objectives, and missions of the department. These positions may require a Professional or Technical License, Certification, and/or Degree and/or require skills which cannot be reassigned to another less qualified employee.
- 2.2 Furlough - Temporary, unpaid time off of work for a specified period of time for which the employee shall not be able to use accrued personal or vacation time.  
Note: A furlough is not a layoff.

## 3.0 WORK STANDARDS

### General

- 3.1 The OBC will provide a directive, through resolution, to the appropriate General Manager Level identifying the effective dates of the furlough.
- 3.2 The OBC and/or the Finance Office will notify HRD and General Manager Level positions of the specific goal of the directive, e.g., reduce payroll by 10% in all applicable Divisions.
- 3.3 General Manager Level positions shall develop furlough plans for their respective departments and agencies. The furlough plans will be in compliance with Article V of the Furlough Policy.
- 3.4 Exempt employees must receive full days of pay; exempt employees cannot have partial days unpaid. Exempt employees can volunteer for a reduction in hours as long as the reduction results in maintaining the minimum salary threshold established by the

- Fair Labor Standards Act (FLSA).
- 3.5 Furloughed employees cannot use vacation or personal time on the day(s) the furlough is applied.
- 3.6 Employees will continue to receive other benefits during an involuntary furlough.
  - 3.6.1 If an employee's weekly payroll is not enough to cover the weekly deductions for the following benefits, the deductions will be covered by the Tribe:
    - 3.6.1.1 Medical, Dental, Vision, and Short/Long Term Disability.
  - 3.6.2 If an employee's weekly payroll is not enough to cover the weekly deductions for the following individual benefits, the deductions will be the responsibility of the employee:
    - 3.6.2.1 Term Life, Whole Life, Accident, Critical Illness, Individual Short Term Disability

#### Non-Furlough Options

- 3.7 General Manager Level positions may utilize non-furlough options prior to implementing a furlough plan.
  - 3.7.1 Non-furlough options may be prioritized based upon but not limited to:
    - 3.7.1.1 Essential versus non-essential positions,
    - 3.7.1.2 Years of service,
    - 3.7.1.3 Certifications/licensing,
- 3.8 The following is a list of potential non-furlough options:
  - 3.8.1 Time off without pay/reduced work schedule (available to regular status and temporary employees)
  - 3.8.2 Layoff(s)
  - 3.8.3 Leave of absence(s)
  - 3.8.4 Attrition (not filling open positions)
  - 3.8.5 Eliminating vacant position(s)

#### Furlough Plans

- 3.9 Furlough Plans shall be considered if the payroll goal has not been met by implementing non-furlough options.
- 3.10 General Manager Level positions will identify how employees will be selected for furlough. Examples of selection method may include but not limited to:
  - 3.10.1 Essential versus non-essential positions
  - 3.10.2 Years of Service
  - 3.10.3 Certifications/licensing
- 3.11 General Manager positions or delegates may choose from any of the following (or combination of) to meet the payroll goal:
  - 3.11.1 Voluntary furlough(s)
    - 3.11.1.1 Full-schedule furlough (full work week)
    - 3.11.1.2 Less than full-schedule furlough (less than full work week)
  - 3.11.2 Involuntary furlough(s)
    - 3.11.2.1 Full-schedule furlough (full work week)
    - 3.11.2.2 Less than full-schedule furlough (less than full work week)
- 3.12 Employees must be notified by their supervisor at least five (5) business days prior to a



furlough being implemented.

## **4.0 PROCEDURES**

### **Selection criteria for voluntary furlough and non-furlough options**

- 4.1 Determine what voluntary option(s) will be offered based on business needs.
- 4.2 Offer voluntary option(s) to employees.
  - 4.2.1 Ensure employees understand the implications of their decision.
    - 4.2.1.1 For example: if an employee reduces their weekly hours to 25 hours a week, that will result in a status change from Full Time to Half Time. Resulting in changes to their benefit eligibility.
- 4.3 Determine which employee(s) will be allowed to take a voluntary option(s).
- 4.4 Notify employee(s) of the approval of their voluntary option(s) choice(s).
- 4.5 If not enough employees volunteer to meet the payroll goal, use involuntary non-furlough options.

### **Selection criteria for involuntary furlough(s)**

- 4.6 Determine how many hours are still needed to meet the payroll goal identified by the Business Committee.
- 4.7 Determine which position(s) will be targeted for involuntary furlough based on business needs.
- 4.8 Determine the furlough option(s) (full-schedule or less-than full-schedule) to meet payroll goal based on business needs. For example:
  - 4.8.1 Furlough one exempt and two non-exempt positions – full-schedule
  - 4.8.2 Furlough twelve non-exempt positions – four hours per week.
  - 4.8.3 Furlough six exempt positions – two days per week.
- 4.9 Determine which employee(s) holding the targeted position(s) will be involuntarily furloughed.
  - 4.9.1 Use Indian Preference to make your selection when more than one person holds the targeted position and those employees have different Indian preference categories. For example, if you have ten employees and need to select five, use the following criteria in order to determine which employees will be furloughed:
    - 4.9.1.1 First furloughed - Non-Indian
    - 4.9.1.2 Second furloughed - Other Native American Indian
    - 4.9.1.3 Third furloughed - Documented first generation Oneida descendant
    - 4.9.1.4 Fourth furloughed - Oneida Indian eligible for enrollment with Oneida Tribe
    - 4.9.1.5 Last furloughed - Enrolled Oneida Tribal member
  - 4.9.2 If multiple employees are in the same Indian Preference category, and not all of them will be furloughed, the employee(s) with the most continuous years of service with the Tribe will not be furloughed. For example, if Joe & Jane are both non-Indian, Joe would not be furloughed because he has 15 continuous years of service with the Tribe versus Jane who has 14 continuous years of service.

- 4.10 Notify employee(s) of the number of hours per week they will be furloughed.
  - 4.10.1 Ensure employees understand the implications of the decision.
- 4.11 Notify the Human Resources Department of the chosen employees and their furlough dates.

## **5.0 REFERENCES**

- 5.1 Furlough Policy

## **6.0 FORMS**

- 6.1 Furlough Notification Form

**BC Resolution \_\_\_\_\_**  
*Adoption of the Furlough Policy*

**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,** a Furlough Policy enables the Tribe to implement a furlough as a tool to remedy an operating budget deficit in order to manage the fiscal responsibility of the budget, to limit cuts in services provided, and lay-offs; and

**WHEREAS,** The Oneida Business Committee may authorize a furlough period through resolution; and

**WHEREAS,** General Manager-level positions shall develop furlough plans for their areas; and

**WHEREAS,** Furloughs may not be used for disciplinary reasons; and

**WHEREAS,** A public meeting on the proposed Furlough Policy on February 5, 2015 in accordance with the Legislative Procedures Act.

**NOW THEREFORE BE IT RESOLVED,** that the attached Furlough Policy is hereby adopted.

**NOW THEREFORE BE IT FURTHER RESOLVED,** the Furlough Policy will be effective 90 days after adoption;

**NOW THEREFORE BE IT FINALLY RESOLVED,** that the Human Resources Department is directed to complete the following within the next 60 days:

1. Review the Furlough Policy and create necessary documents for implementation.
2. Review existing work standards, standard operating procedures and interpretive memorandums to address any conflicts or corrections that should be made to fully implement the Furlough Policy.
3. Prepare a brief summary of the Furlough Policy for the organization and identify where additional resources can be obtained in the event a furlough is approved.

Resolution \_\_\_\_\_  
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- 41           4. Prepare necessary training videos to be used if a furlough is approved by the Oneida  
42           Business Committee.  
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# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

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Oneida, WI 54155

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## Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

## Statement of Effect

### *Adoption of the Furlough Policy*

### *Summary*

This Resolution adopts the Furlough Policy which enables the Tribe to implement a furlough as a tool to remedy an operating budget deficit. According to the Resolution, the Furlough Policy will become effective ninety (90) days after adoption. In addition, the Resolution directs the Human Resources Department to review the Furlough Policy and create necessary documents for implementation; review existing work standards, standard operating procedures and interpretive memorandums to address any conflicts or corrections that should be made to fully implement the Furlough Policy; prepare a brief summary of the Furlough Policy for the organization and identify where additional resources can be obtained in the event a furlough is approved and prepare necessary training videos to be used if a furlough is approved by the Oneida Business Committee. The Resolution requires the Human Resources Department to complete these directives within the next sixty (60) days.

*Submitted by Douglass McIntyre, Staff Attorney, Legislative Reference Office*

### *Analysis from Legislative Reference Office*

This intent of the Policy is to provide the Tribe with a tool to help remedy an operating budget deficit. Under the Policy, when the Oneida Business Committee identifies the necessity for a furlough, a directive by resolution is given by the OBC. The Policy requires General Manager Level positions to develop furlough plans for their areas which must set how each department or agency intends to implement a furlough. In addition, the Policy does not allow furloughs to be used as a form of discipline.

Under the proposed Policy, employees placed on furlough are not separated from employment with the Tribe but are placed on an unpaid leave of absence. Furlough days must be taken on days that an employee is scheduled to work, and the employee is not able to use their accrued personal or vacation time on any furlough days. The Policy specifically prohibits an appeal of a decision to Furlough.

### *Conclusion*

There are no legislative bars to adopting this Resolution.



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

# ONEIDA TRIBE OF INDIANS OF WISCONSIN

## ONEIDA FINANCE OFFICE

Office: (920) 869-4325 • Toll Free: 1-800-236-2214  
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Page 2  
UGWA DEMOLUM YATEHE  
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

## MEMORANDUM

DATE: September 10, 2015

FROM: Rae Skenandore, Project Manager

TO: Larry Barton, Chief Financial Officer  
Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer

RE: **Fiscal Impact – Furlough Policy**

### I. Background

An Emergency Furlough Policy was adopted by BC Resolution 10-15-13-A. The resolution states the following:

*“The Oneida Business Committee has identified financial constraints due to the United States Government shut down which has halted Federal funding for some Tribal programs and services, and in order to manage the fiscal responsibility of the 2014 budget and to guarantee no cuts in services and programs, the Oneida Tribe of Indians of Wisconsin needs to implement an emergency Furlough Policy to provide a temporary reduction in work force to be in effect until such time as the United States Government shutdown ends and the Federal funding recommences, and the Legislative Procedures Act 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 emergency adoption of the Furlough Policy is necessary for the preservation of the public health, safety, or general welfare of the reservation population, and observance of the adoption requirements under the Legislative Procedures Act for passage of laws and policies would be contrary to public interest”.*

BC Resolution 04-09-14-D was approved as a 6 month extension of emergency adoption of the Furlough Policy.

On October 8, 2014, OBC motion by Lisa Summers to accept the Legislative Operating Committee update with the following: With regard to the Furlough Policy, the Business Committee agrees that the LOC should move forward with the development of a permanent policy. Motion seconded by Trish King. Motion carried unanimously. October 15, 2014 LOC motion by Jennifer Webster to add the Furlough Policy to the Active Files List; seconded by Fawn Billie. Motion carried unanimously. Fawn Billie is the sponsor for this item.

On July 13, 2015 the Human Resources Department (HRD) drafted a Standard Operating Procedure (SOP) to provide guidance and direction for management when the Business Committee deems furloughs necessary.

## **II. Executive Summary of Findings**

The Policy allows the Tribe to implement furloughs as a tool to remedy an operating budget deficit. A furlough may be utilized when a decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid leave shall be identified. General Manager Level positions shall develop furlough plans for their respective departments and agencies. All furlough plans shall be kept on file with the Human Resources Department.

There is no startup cost associated with enacting the policy. According to HRD, existing in-house personnel will be utilized to communicate and implement the policy. There are no additional office or space requirements or documentation expenses. HRD estimates that the policy and the SOP can be implemented within 30 days of approval. While not within the specific scope of this policy, Finance does have some concerns with potential financial obligations that may arise from some of the existing language in the SOP. It is recommended that HRD work with Finance prior to finalizing the SOP.

## **III. Financial Impact**

No fiscal impact.

## **IV. Recommendation**

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council have sufficient information to render a decision.

## Furlough Policy

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Furlough

Article V. Furlough Plans  
Article VI. Supervisor Responsibilities  
Article VII. Appeal

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	The Furlough Policy ("The Policy")				
<b>Requester</b>	Oneida Business Committee (OBC)	<b>Drafter</b>	Lynn Franzmeier	<b>Analyst</b>	Tani Thurner
<b>Reason for Request</b>	On October 15, 2013, the Oneida Business Committee (OBC) adopted a Furlough Policy on an emergency basis, which was extended and then expired on October 9, 2014. During the 2011-14 term, the Legislative Operating Committee (LOC) was processing the Furlough Policy for permanent adoption but did not complete it before the end of the term. This term, the OBC directed the LOC to continue processing that Policy for permanent adoption.				
<b>Purpose</b>	This Policy sets out a process for the Tribe to furlough employees (temporarily reducing their work hours) as a cost-saving measure.				
<b>Authorized/ Affected Entities</b>	General Manager Level Positions, Supervisors, Human Resources Department (HRD) and the OBC all have responsibilities; all employees could be affected.				
<b>Due Process</b>	The Policy expressly states that furlough decisions cannot be appealed under any Tribal law, policy or the personnel grievance process. [7-1]				
<b>Related Legislation</b>	Layoff Policy; Personnel Policies and Procedures				
<b>Policy Mechanism</b>	Resolution adopted by OBC; Furlough Plans				
<b>Enforcement</b>	None, but the Blue Book would govern any violations by Tribal employees.				

### Overview

This is a new Policy that enables the Tribe to implement furloughs as a tool to remedy an operating budget deficit. [1-1] This policy applies to all employees of the Tribe, specifically including employees of Tribal programs and enterprises, and political appointees. Elected and appointed officials are specifically excluded; so they are not subject to furloughs. [1-2 and 3-1(a)]

### What is a furlough?

A furlough is a temporary unpaid leave from work for a specified period of time. [3-1(b)] Employees may not use personal or vacation time while on furlough and are not eligible for back pay when they return to work [4-6 and 4-8].

- Employees must be furloughed on days they are normally scheduled to work, or on Tribal holidays, regardless of whether they were scheduled to work. [4-2]
- Employees on furlough cannot perform any work, including responding to work-related e-mail or voicemail and traveling on behalf of the Tribe. [4-4]
- A furlough does not constitute a break in continuous service. [4-4] However, an employee will not accrue personal and vacation time during a furlough. [4-6] This means that, depending on years of service, an employee will not accrue the following amount of personal/vacation time:
  - **0-3 years of service:** 0.554 hours for each full 8-hour day of furlough.
  - **4-7 years of service:** 0.708 hours for each full 8-hour day of furlough.
  - **8-14 years of service:** 0.923 hours for each full 8-hour day of furlough.
  - **15+ years of service:** 1.138 hours for each full 8-hour day of furlough.



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- Employees are responsible for contacting the State to determine if they qualify for unemployment insurance benefits while furloughed. [4-5]

### **Weekly Benefit Deductions for Furloughed Employees**

Employees continue to receive all benefits (except personal/vacation time) during a furlough. [4-6] Although not mentioned in the Law; the Standard Operating Procedure for furloughs developed by the Human Resources Department states that if an employee's weekly payroll is not enough to cover their weekly payroll deductions for various benefits, then:

- Deductions for medical, dental, vision, and short/long term disability would be covered by the Tribe.
- Deductions for Term/Whole life, Accident, Critical Illness, and Individual Short Term Disability would be the responsibility of the employee. [HRD Furlough SOP 3.6]

Josh Cottrell, Manager of HRD's Employee Insurance program has identified that payment for those deductions the employee is responsible for, could be deducted from future payroll, however this is not stated in the SOP.

### **Impact on workplace**

Furloughs must be scheduled in a way that allows departments to continue to provide a basic level of service. [5-2(b)] Within each area, temporary employees must be furloughed first; followed by any volunteers; and then all other employees are eligible to be furloughed. Section II. C of the Personnel Policies and Procedures identifies several temporary classifications – Emergency/Temp, Limited Term, Seasonal, Substitute/Relief, Youth Worker and Student/Intern. According to Josh Cottrell, Employee Insurance Manager, it appears that HRD would interpret this to mean that all of those temporary classifications would be furloughed first.

Employees cannot earn overtime during any pay period where another employee from the same department/agency is furloughed; and cannot earn additional duty pay for performing duties for furloughed employees from the same department/agency. [4-7(b)] Furloughs cannot be used for disciplinary reasons. [5-2(e)]

This Policy requires General Manager-Level positions (GM-level positions) to create/implement furlough plans, but does not identify requirements or a process for placing political appointees (i.e. OBC assistants) on furlough. It appears the intent is for the OBC to develop a standard operating procedure to govern such situations.

### **Furlough Plans**

GM-level Positions must develop furlough plans to be kept on file with HRD, setting forth how their respective departments/agencies intend to implement a furlough. A furlough plan must explain how employees will be selected and the estimated number of employees that would be affected; and must include a tentative schedule for a furlough and a summary of how the furlough will relieve budget shortfalls. This requirement is similar to the layoff plans that are required to be created in order to implement the Layoff Policy; except that furlough plans are not specifically required to be approved by the OBC; and HRD is not specifically given a role in helping to create furlough plans. [4-2(a), Article V]

### **Furlough Process**

The Policy sets out the following process:

1. OBC identifies that a furlough is necessary due to a decrease/lapse in revenue/funding, or any other budget situation warranting an unpaid leave. [4-1]
2. OBC gives the appropriate GM-Level positions a directive by passing a Resolution. (A GM-Level position is defined as "the highest level in the chain of command under the

For OBC consideration  
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- Oneida Business Committee, and who is responsible for a Tribal Department and/or Division”) The Resolution must include furlough start and end dates. [4-1]
3. GM-Level positions must immediately carry out the furlough plans for his/her areas; and notify the supervisors in their areas that furloughs are necessary. [4-2 and 6-1]
  4. Supervisor identifies employees who will be furloughed. [6-1(a)]
  5. Supervisor notifies employees of the furlough and of their furlough dates. Employees must be notified at least five days before their position is furloughed. [6-1(b) and 4-3]
  6. Supervisor notifies HRD of the employees who were chosen to be furloughed and of their furlough dates. [6-1(c)]

### Miscellaneous

A Public Meeting was held on February 5, 2015, and the comments received from that meeting and during the public comment period have been reviewed and considered. Any changes made from that review have been incorporated into this draft.

### Considerations

The following are remaining issues that the LOC may want to consider:

- 4-8 says furloughs shall not be used for disciplinary reasons, but 7-1 says that employees cannot appeal a furlough decision. 4-8 may be difficult to enforce because 7-1 would prevent an employee from appealing a furlough decision that s/he feels was disciplinary.
- The proposed Furlough Policy does not authorize Indian Preference to be utilized in making furlough decisions. The Tribe’s Layoff Policy does allow for Indian Preference, and the LOC has been made aware that this Policy does not specifically allow for Indian Preference to be used in furlough situations; but has not chosen to include such language.
  - However, the draft Furlough SOP developed by HRD (which sets out the process for implementing this Policy) does allow for Indian Preference to be utilized in making layoffs. If Indian Preference is to be utilized, it is recommended that the Law establish more clear direction on when and how it is to be utilized; so that all employees will be affected the same way and can more easily understand what to expect during a furlough. For example:
    - Ensuring that Indian Preference is utilized consistently – requiring all departments to apply Indian Preference, if it can be applied.
    - Identifying whether Indian Preference or Seniority would be applied first.
    - Identifying how Indian Preference is applied – for example, within each department, whether:
      - Only non-Indian employees will be furloughed, unless there aren’t any; or
      - Non-Indian employees will be furloughed for more hours than other employees, but all employees will be furloughed, or
      - Any other method of applying Indian Preference would be applied. (including the order of preference - for example, the HRD has interpreted Indian Preference to mean a preference first for enrolled Tribal members; then for those who are eligible for enrollment – and not enrolled elsewhere; then first-generation descendants not enrolled elsewhere, then members of other Native American Indian tribes; then non-Indians. But the Layoff Policy applies it differently, stating that Indian Preference means “a

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preference granted to retain the Oneida member employee when all other things being equal with non-member employees. Provided that, a manager may identify critical positions within the business unit which shall not be subject to Indian Preference. [Layoff Policy D.1.]”

- Whether there shall be any positions that are exempt from the Indian Preference requirement.

Comparison - Layoffs are generally one continuous break from employment, whereas a furlough is a temporary absence from employment which can be done all at once, or in shorter periods (i.e. one day a week for three months, etc). By requiring all employees within a department to take furloughs in shorter periods, the impact of the furlough can be spread and applied more evenly across the entire unit, with minimal impact to all persons. However, depending on how it is intended to be applied, allowing Indian Preference could require non-Oneida employees to bear the impact of a layoff completely, or to a much greater extent than other employees; instead of having all employees in a specific area equally absorb a minimal impact.

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## Furlough Policy

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### Article I. Purpose and Policy

1-1. *Purpose.* The purpose of this Policy is to enable the Tribe to implement a furlough as a tool to remedy an operating budget deficit.

1-2. *Policy.* This Policy shall apply to all employees of the Tribe. To utilize a furlough, a decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid leave shall be identified.

### Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC \_\_\_\_\_.

2-2. This Policy may be amended or repealed by the Oneida Business Committee 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 Article shall govern the definitions of words or phrases as used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “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

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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 and political appointees, but does not include elected or appointed officials.

(b) "Furlough" shall mean a temporary, unpaid leave from work for a specified period of time.

(c) "General Manager Level position" shall mean the highest level in the chain of command under the Oneida Business Committee and who is responsible for a Tribal Department and/or Division.

(d) "Supervisor" shall mean a person who directly oversees the work and performance of an employee on a daily basis.

(e) "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

#### **Article IV. Furlough**

4-1. *Furlough Resolution.* If the Oneida Business Committee has identified the necessity for a furlough, a directive by resolution shall be given to the appropriate General Manager Level positions. The resolution shall direct the beginning and ending dates of the furlough.

4-2. *Implementation of Furlough Plans.* Upon the passage of a resolution directing that a furlough be implemented, all General Manager Level positions shall immediately carry out the furlough plans for his or her respective departments or agencies. An employee shall be furloughed on days that the employee is normally scheduled to work or on holidays recognized by the Tribe, whether the employee is normally scheduled to work or not.

4-3. *Notice.* A supervisor shall give an employee notice at least five (5) business days prior to a furlough being implemented for his or her position.

4-4. *Continuous Service.* A furlough shall not constitute a break in continuous service. Employees shall not perform any work for the Tribe while furloughed. This includes responding to work-related e-mail and voice mail, as well as traveling on behalf of the Tribe.

4-5. *Unemployment.* Furloughed employees shall be responsible for contacting the State of Wisconsin Department of Workforce Development to determine if they qualify for unemployment insurance benefits. Eligibility for unemployment insurance benefits is determined by the State of Wisconsin.

4-6. *Benefits.* Employees shall not use or accrue personal or vacation time when on furlough. Employees shall continue to receive other benefits during a furlough.

4-7. *Overtime and Additional Duty Pay.* When a furlough is implemented in a department or agency, no employee in that department or agency shall be eligible for:

(a) overtime during the same pay period that another employee from the same department or agency is on furlough; or

(b) additional duty pay for performing duties for other employees in his or her department or agency who are on furlough.

4-8. *Back Pay.* Employees on furlough shall not be eligible for back pay awards upon return to work.

#### **Article V. Furlough Plans**

5-1. *Furlough Plans.* The General Manager Level positions shall develop furlough plans for their respective departments and agencies.

5-2. The furlough plans shall set forth how each department or agency intends to implement a

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furlough. The plan shall include, but not be limited to, the following:

- (a) an explanation of how employees will be selected;
  - (1) Temporary employees shall be furloughed first, followed by employees who volunteer to be furloughed. All other employees shall then be eligible to be furloughed.
- (b) a tentative schedule for a furlough;
  - (1) Furloughs shall be scheduled in a way that allows the departments to continue to provide a basic level of service.
- (c) the estimated number of employees affected; and
- (d) a summary of how the furlough will relieve budgetary shortfalls.
- (e) Furloughs shall not be used for disciplinary reasons

5-3. All furlough plans shall be kept on file with the Human Resources Department.

## **Article VI. Supervisor Responsibilities**

6-1. Upon notification from the appropriate General Manager Level position that furloughs are necessary, a supervisor shall:

- (a) Identify those employees who will be furloughed.
- (b) Notify those employees that they will be furloughed and their furlough dates;
- (c) Notify the Human Resources Department of the chosen employees and their furlough dates.

## **Article VII. Appeal**

7-1. *Right to Appeal.* An employee who has been furloughed does not have the right to appeal such a decision under any Tribal law, policy or the personnel grievance process.

*End.*

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Emergency Adoption – BC-10-15-13-A  
Emergency Adoption Extension BC-04-09-14-D

## **Furlough Policy**

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Furlough

Article V. Furlough Plans  
Article VI. Supervisor Responsibilities  
Article VII. Appeal

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### **Article I. Purpose and Policy**

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(b) "Furlough" shall mean a temporary, unpaid leave from work for a specified period of time.

(c) "General Manager Level position" shall mean the highest level in the chain of command under the Oneida Business Committee and who is responsible for a Tribal Department and/or Division.

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43 furlough be implemented, all General Manager Level positions shall immediately carry out the  
44 furlough plans for his or her respective departments or agencies. An employee shall be  
45 furloughed on days that the employee is normally scheduled to work or on holidays recognized  
46 by the Tribe, whether the employee is normally scheduled to work or not.

47 4-3. *Notice.* A supervisor shall give an employee notice at least five (5) business days prior to a  
48 furlough being implemented for his or her position.

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51 to work-related e-mail and voice mail, as well as traveling on behalf of the Tribe.

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53 Wisconsin Department of Workforce Development to determine if they qualify for  
54 unemployment insurance benefits. Eligibility for unemployment insurance benefits is determined  
55 by the State of Wisconsin.

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57 Employees shall continue to receive other benefits during a furlough.

58 4-7. *Overtime and Additional Duty Pay.* When a furlough is implemented in a department or  
59 agency, no employee in that department or agency shall be eligible for:

60 (a) overtime during the same pay period that another employee from the same  
61 department or agency is on furlough; or

62 (b) additional duty pay for performing duties for other employees in his or her  
63 department or agency who are on furlough.

64 4-8. *Back Pay.* Employees on furlough shall not be eligible for back pay awards upon return to  
65 work.

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68 5-1. *Furlough Plans.* The General Manager Level positions shall develop furlough plans for  
69 their respective departments and agencies.

70 5-2. The furlough plans shall set forth how each department or agency intends to implement a  
71 furlough. The plan shall include, but not be limited to, the following:

72 (a) an explanation of how employees will be selected;

73 (1) Temporary employees shall be furloughed first, followed by employees who  
74 volunteer to be furloughed. All other employees shall then be eligible to be  
75 furloughed.

76 (b) a tentative schedule for a furlough;

77 (1) Furloughs shall be scheduled in a way that allows the departments to continue  
78 to provide a basic level of service.

79 (c) the estimated number of employees affected; and

80 (d) a summary of how the furlough will relieve budgetary shortfalls.

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82 5-3. All furlough plans shall be kept on file with the Human Resources Department.

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For OBC consideration  
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- (a) Identify those employees who will be furloughed.
- (b) Notify those employees that they will be furloughed and their furlough dates;
- (c) Notify the Human Resources Department of the chosen employees and their furlough dates.

## **Article VII. Appeal**

7-1. *Right to Appeal.* An employee who has been furloughed does not have the right to appeal such a decision under any Tribal law, policy or the personnel grievance process.

*End.*

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Emergency Adoption – BC-10-15-13-A

Emergency Adoption Extension BC-04-09-14-D





# Legislative Operating Committee

## September 16, 2015

# Removal Law Amendments

**Submission Date:** December 17, 2014

✓ Public Meeting: 4/30/15  
☐ 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.

**02/18/15 LOC:** Motion by Fawn Billie defer the Removal Law Amendments for a legislative analysis and a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

**4/3/15 LOC:** Motion by Jennifer Webster to forward the Removal Law Amendments to an April 30th, 2015 Public Meeting; seconded by Tehassi Hill. Motion carried unanimously.

**4/30/15:** Public Meeting Held.

**7/1/15 LOC:** Motion by David P. Jordan to defer the Removal Law Amendments to a work meeting; seconded by Tehassi Hill. Motion carried unanimously.

**7/1/15:** Work Meeting Held. Attendees include: Brandon Stevens, Tehassi Hill, David P. Jordan, Danelle Wilson, Leyne Orosco, Ed Delgado, Douglass McIntyre, Candice Skenandore, Taniquelle Thurner, Daril Peters, Jordyn Rassmussen.

**9/4/15:** Strategy meeting held. Attendees include: Brandon Stevens, Jennifer Webster, Fawn Billie, Douglass McIntyre.

### Next Steps:

- Review the changes to the draft and determine if the changes are substantial enough that another Public Meeting is required.
- Consider sending the Oneida Business Committee for adoption.

## Chapter 4 REMOVAL LAW

### Kwah Oná Aluwalihutákwás Kayanláhsla

Just when they will remove him our kind of laws

- 4.1. Purpose and Policy
- 4.2. Adoption, Amendment, Repeal
- 4.3. Definitions
- 4.4. Grounds for Removal
- 4.5. Removal – Oneida Business Committee
- 4.6. Preliminary Review – Oneida Business Committee
- 4.7. Hearing – Oneida Business Committee

- 4.8. Final Determination of General Tribal Council Meeting – Oneida Business Committee
- 4.9. Removal – Elected Official
- 4.10. Preliminary Review – Elected Official
- 4.11. Hearing – Elected Official
- 4.12. Final Determination of Oneida Business Committee Meeting – Elected Official

#### 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 Resolution GTC-01-09-06-A and amended by Resolution BC-05-28-14-B and by Resolution GTC\_\_\_\_\_.

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. 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 used 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) "Elected Official" means for the purposes of this Law, 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~~ those appointed to vacancies in elected position on a board, committee or commission. For the purpose of

this Law, this definition will exclude members of the Oneida Business Committee who are subject to separate removal provisions under this Law.

(c) "Eligible voter" means a person able to vote under the Constitution of the Oneida Tribe of Indians of Wisconsin.

(d) "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.

(e) "Tribe or Tribal" 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 per term without an excused 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 failure to continue to meet the qualifications for office as identified in the Oneida Constitution;

(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 per term without an excused 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;

(c) violation of the by-laws, operating agreements, laws, regulations or Standard Operating Procedures of the board, committee or commission and laws, policies or regulations of the Tribe;

(d) intentional mis-use of Tribal funds;

(e) alcohol use while performing official responsibilities or use of illegal drugs at any time;

(f) if he or she no longer meets failure to continue to meet the qualifications for office as identified in by-laws and Tribal law;

(g) violating a Tribal law which specifies removal as a penalty; or

(h) felony conviction while in office.

#### 4.5. Petition Removal – Oneida Business Committee

4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an Oneida Business Committee member. No petition shall may request the removal of more than one (1) Oneida Business Committee member. The

4.5-2. The petitioner shall use an official petition shall form as designated by this Law, which may be obtained through the Tribal Secretary's Office. The petition must, at a minimum, include appropriate lines for the eligible voters':

(a) printed name;

(b) signature;



(c) street address; and

(d) Oneida Tribal Enrollment Number.

4.5-3. The petition must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than ~~two~~three hundred (~~200~~300) words, and must be signed by ~~fifty (50) or more~~ a number of eligible voters ~~or a number~~ equal to at least thirty (~~30~~) percent (30%) 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.~~

4.5-24. The petition ~~shall~~must be filed with the Tribal Secretary's Office within thirty (30) calendar days after the date the first signature is obtained on the petition.

~~4.5-3. The A~~ 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~~may not be amended after it is filed with the ~~fact that:~~ Tribal Secretary.

(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.~~

4.5-5-4. 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 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.

4.5-56. 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- for lack of requisite signatures. No additional names may be added to the petition, and the petition ~~shall~~may not be used in any other proceeding.

4.5-67. 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 Oneida Business Committee member sought to be removed and forward a copy of the same to the Judiciary.

4.5-78. 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 Oneida Business Committee member whose removal is sought. The motion ~~shall~~must be filed within twenty (20) calendar days of service of the certified copy of the petition upon the Oneida Business Committee member sought to be removed. The motion ~~shall~~must be in writing and the grounds limited to: the authenticity of the signatures.

~~(a) the authenticity of the signatures; and~~

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

4.6-4. ~~The Judiciary review shall~~ This motion must be ~~conducted~~heard in the presence of the parties, who may be represented by Counsel during the review. The Judiciary shall provide the parties the opportunity to present evidence and testimony shall be provided only as to the authenticity of the signatures. If the Judiciary determines that a petition contains less than the required number of valid signatures, the petition shall be dismissed and the matter shall be at an end.

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

4.7-1. *Rights of Oneida Business Committee Member at Hearing.* An Oneida Business Committee member whose removal is sought ~~shall have~~has 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 Oneida Business Committee member ~~shall have~~has the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.7-3. *~~Findings~~Decision.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, schedule a hearing to 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~~decision~~ to the Tribal ~~Chair~~Chairperson and or designee.

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

4.8-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the findings~~decision~~ from the Judiciary, a special General Tribal Council meeting ~~shall~~must be held to consider the findings~~decision~~.

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

4.8-3. *Determination.* 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~~must be dismissed.

4.8-5. *Non-appealable.* There is no appeal from the determination of the General Tribal Council.



#### 4.9. Removal – 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, which ~~shall~~must be filed with the Tribal Secretary's Office within thirty (30) calendar days after:

- (a) the date the first signature is obtained on the petition; or
- (b) the board, committee or commission adopts the removal request.

4.9-2. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly 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 or removal request.

4.9-3. *Petitions.* Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an Elected Official. No petition ~~shall~~may request the removal of more than one (1) Elected Official. The petition ~~shall~~must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than ~~two~~three hundred (~~200~~300) words, and must be signed by ~~fifty (50) or more~~ a number of eligible voters ~~or a number~~ equal to at least thirty (~~30~~) percent (30%) 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.

(a) The ~~petitioner shall use an official~~ petition ~~shall contain, in ink:~~  
~~(1) form as designated by this Law which may be obtained through the Tribal Secretary's Office.~~ The ~~petition must, at a minimum, include~~ appropriate lines for the eligible ~~voter's:~~voters':

~~(A)~~ printed name;

~~(B)~~ Signature;

~~(C)~~ signature;

~~(3)~~ street address; and

~~(D)~~ (4) Oneida Tribal Enrollment Number.

~~(2) An oath verifying the fact that:~~

~~(A) The circulator witnessed each person sign the petition;~~

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

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

(b) The Tribal Secretary shall promptly 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.

(1) If the Enrollment Department determines that a 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: for lack of requisite signatures. No additional names may be added to the petition, and the petition ~~shall~~may not be used in any other proceeding.

(2) If the Enrollment Department determines that a petition contains the requisite number of signatures, 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.

4.9-4. *Removal Requests.* A board, committee, or commission may file a removal request for one of its members 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



221 | ~~shall~~may request the removal of more than one (1) Elected Official. The removal request  
222 | ~~shall~~must state with particularity the facts upon which it is based and the specific grounds for  
223 | removal, in not more than ~~two~~three hundred (~~200~~300) words. A removal request may not be  
224 | amended after it is filed with the Tribal Secretary.

225 | (a) Upon verification by the Tribal Secretary of the action the board, committee or  
226 | commission adopting the removal request, the Tribal Secretary shall promptly cause a  
227 | certified copy of the removal request to be served upon the Elected Official sought to be  
228 | removed and forward a copy of the same to the Judiciary.

229 | (b) If the Tribal Secretary determines that a removal request does not meet the  
230 | requirements of 4.9-4, the Tribal Secretary shall so certify to the Oneida Business  
231 | Committee and file the removal request without taking further action, ~~and~~ the matter ~~shall~~  
232 | ~~be~~ at an end for lack of valid action by the board, committee or commission.

#### 233 | **4.10. Preliminary Review – Elected Official**

234 | 4.10-1. The Judiciary, upon receipt of the petition or removal request, shall schedule a  
235 | preliminary review, to take place within twenty (20) calendar days, to determine whether the  
236 | allegations set forth in the petition or removal request would constitute sufficient grounds for  
237 | removal. The Judiciary may request that the parties submit arguments in writing, and the parties  
238 | may be represented by Counsel.

239 | 4.10-2. If the Judiciary determines that a petition or removal request does not allege sufficient  
240 | grounds for removal, the petition ~~or removal request~~ shall be dismissed. If the Judiciary  
241 | determines that the petition or removal request alleges sufficient grounds for removal, the  
242 | Judiciary shall conduct a hearing under 4.11.

243 | 4.10-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the  
244 | petition or the validity of the action of the board, committee or commission adopting a removal  
245 | request may be reviewed by the Judiciary upon motion of the Elected Official whose removal is  
246 | sought. The motion ~~shall~~must be filed within twenty (20) calendar days of service of the  
247 | certified copy of the petition or removal request upon the Elected Official sought to be removed.  
248 | The motion ~~shall~~must be in writing and the grounds limited to ~~one (1) or more~~either of the  
249 | following:  
250 |

251 | (a) the authenticity of the signatures on a petition; ~~or~~

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

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

255 | 4.10-4. The ~~Judiciary review shall~~motion must be ~~conducted~~heard in the presence of the parties,  
256 | who may be represented by Counsel during the review. The Judiciary shall provide the parties  
257 | with the opportunity to present evidence and testimony shall be provided only as to the  
258 | authenticity of the signatures and the validity of the action taken by a board, committee or  
259 | commission in approving a removal request. If the Judiciary determines that a petition contains  
260 | less than the required number of valid signatures, ~~or~~ the ~~petition shall be dismissed~~. ~~If the~~  
261 | ~~Judiciary determines that a removal request does not contain valid action taken by the~~a board,  
262 | committee or commission in approving a removal request was invalid, the Judiciary shall dismiss  
263 | the petition and the removal request matter shall be ~~dismissed~~at an end.

**4.11. Hearing – Elected Official**

4.11-1. *Rights of Elected Official at Hearing.* An Elected Official whose removal is sought ~~shall~~ have~~has~~ 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~~party seeking the removal of an Elected Official ~~shall~~ have~~has~~ the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.11-3. *~~Findings~~Decision.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, schedule a hearing to 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~~decision~~ to the Tribal ~~Chair~~Chairperson and or designee.

**4.12. Final Determination at Oneida Business Committee Meeting – Elected Official**

4.12-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the findings~~decision~~ from the Judiciary, a special Oneida Business Committee meeting ~~shall~~must be held to consider the findings~~decision~~.

4.12-2. *Right to address the Oneida Business Committee.* An Elected Official whose removal is sought ~~shall~~ have~~has~~ 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.

4.12-4. *Quorum.* If the meeting of the Oneida Business Committee fails to obtain a quorum, the removal request ~~shall~~must be dismissed.

4.12-5. *Non-appealable.* There is no appeal from the determination of the Oneida Business Committee.

*End.*

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



# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**TO:** Oneida Business Committee  
**FROM:** Brandon Stevens   
**DATE:** September 23, 2015  
**RE:** Removal Law Amendments

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Please find attached the following for your consideration:

1. Resolution: Adoption of the Removal Law Amendments
2. Statement of Effect: Adoption of the Removal Law Amendments
3. Fiscal Impact Statement: Removal Law
4. Removal Law (redline)
5. Removal Law (clean)

### Overview

These amendments establish two separate but similar processes for removing an elected official from office: one process for Oneida Business Committee members and one for all other elected officials. The changes include:

- Creating a separate but similar process for non-OBC elected officials where the OBC would make the final decision at the end of the removal process and would require six OBC members to vote in favor of removal.
- The amendments enable Tribal boards, committees, and commissions to submit a formal removal request for one of their elected members, without having to collect signatures for a petition. In order to submit a removal request, the entity would only need to approve, by majority vote, of taking such action.
- A new provision adds that if elected officials of a board, committee or commission violate their entity's bylaws, operating agreements, laws, regulations or SOPs; it is grounds for removal.

A public meeting on the proposed Removal Law Amendments was held on April 30, 2015 in accordance with the Legislative Procedures Act. The comments from that meeting were received and considered by the Legislative Operating Committee on July 1, 2015.

### Requested Action

Approve the Resolution: Adoption of the Removal Law Amendments.

**GTC Resolution \_\_\_\_\_**  
*Removal Law Amendments*

**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 General Tribal Council adopted the Removal Law (Law) on January 9, 2006; and

**WHEREAS,** a restructure of the Removal Law to allow for a more efficient removal process while preserving the due process of the elected official whose removal is sought would better serve the needs of the Tribe; and

**WHEREAS,** allowing boards, committees and commissions the ability to submit a removal request of a member by majority vote of the entity without requiring a petition enables the Tribe's entities to self-regulate and maintain the integrity of the boards, committees and commissions; and

**WHEREAS,** elected officials of a board, committee or commission can be removed for violation of the entity's bylaws, operating agreements, laws, regulations or SOPs; and

**WHEREAS,** A public meeting on the proposed Removal Law Amendments was held on April 30, 2015.

**NOW THEREFORE BE IT RESOLVED,** the General Tribal Council hereby adopts the attached amendments to the Removal Law.

**NOW THEREFORE BE IT RESOLVED,** the Removal Law amendments shall be effective immediately upon adoption.

**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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

**Statement of Effect***Removal Law Amendments***Summary**

This Resolution adopts amendments to the Removal Law to make the removal process more efficient while preserving the due process of the elected official whose removal is sought. The amendments establish two separate processes for removing an elected official from office that differentiate between the Oneida Business Committee and all other elected positions. The amendments allow a board, committee or commission the ability to request a removal of a member.

*Submitted by: Douglass McIntyre, Staff Attorney, Legislative Reference Office*

***Analysis by the Legislative Reference Office***

The amendments to the Remove law created two separate but similar processes for removing an elected official from office: one process for Oneida Business Committee members and one for all other elected officials. The changes include:

- At the end of the removal process the OBC makes the final decision for non-OBC elected officials and would require six OBC members to vote in favor of removal.
- The amendments enable Tribal boards, committees, and commissions to submit a formal removal request for one of their elected members, without having to collect signatures for a petition. In order to submit a removal request, the entity would only need to approve, by majority vote, of taking such action.
- A new provision adds that if elected officials of a board, committee or commission violate their entity's bylaws, operating agreements, laws, regulations or SOPs; it is grounds for removal.

A public meeting on the proposed Removal Law Amendments was held on April 30, 2015 in accordance with the Legislative Procedures Act. The comments from that meeting were received and considered by the Legislative Operating Committee on July 1, 2015.

**Conclusion**

There are no legislative bars to adopting the Resolution.

## Chapter 4 REMOVAL LAW

**Kwah On/ Aluwalihutákwás Kayan/hsa**

Just when they will remove him our kind of laws

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

<b>Analysis by the Legislative Reference Office</b>					
<b>Title</b>	The Removal Law (the Law)				
<b>Requester</b>	Oneida Law Office; Trust/Enrollment Committee	<b>Drafter</b>	Lynn Franzmeier	<b>Analyst</b>	Tani Thurner
<b>Reason for Request</b>	Stating that the current removal process is too costly, the Trust & Enrollment Committee requested changes to the Removal Law that would enable Tribal boards, committees and commissions (entities) to remove elected members who fail to attend meetings or violate the entity's bylaws.				
<b>Purpose</b>	These proposed amendments do not enable an entity to directly remove its' own elected officials; but do enable those entities to avoid the current petition process by instead filing a formal removal request. Also, the process is changed so that for all elected officials <u>except</u> Oneida Business Committee (OBC) members; the OBC would have the final vote on whether to remove the member, instead of the General Tribal Council.				
<b>Authorized/ Affected Entities</b>	Judiciary, OBC, elected officials and the entities on which they serve.				
<b>Due Process</b>	Elected officials can request that the Judiciary review the validity of removal petition signatures or the action taken for a removal request. The official is also entitled to both a preliminary and a formal hearing before the Judiciary; and then the GTC (for OBC members) or OBC (for all other elected officials) vote on whether to remove the elected official.				
<b>Related Legislation</b>	Comprehensive Policy Governing Boards, Committees and Commissions				
<b>Policy Mechanism</b>	Removal process				
<b>Enforcement</b>	Dismissal of the removal request/petition.				

### Overview

The proposed amendments to the Removal Law (the Law) change the current process for removing elected officials from office. Instead of one single removal process for all elected officials, the amendments split this Law into two separate parts – one sets out a process for removing Oneida Business Committee (OBC) members from office, and the other sets out the removal process for all other elected officials serving on a Tribal board, committee or commission (hereinafter: “entity”). The proposed amendments distinguish the OBC - which was established by the Tribal Constitution; from other entities - which were created by Tribal law.

#### *Removal of an OBC Member*



OBC members would still be subject to the same basic removal process established under the current law - *i.e.* a signed petition is submitted; a preliminary and then formal hearing are held before the Judiciary; and if the petitioner proves with clear and convincing evidence that grounds for removal exist, then a GTC meeting is called within 45 days where GTC votes on whether to remove the elected official. [4.5 to 4.8]

#### *Removal of all other Elected Officials*

All other elected Officials (non-OBC members) would still be subject to the same removal process established under the current Law, but with two major changes:

1. The OBC, instead of the GTC, would have the final vote on whether to remove an elected official. After the Judiciary conducts a hearing and forwards its decision, a special OBC meeting must be called, and if six members of the OBC vote for removal, then the official is removed from office. Like GTC meetings held for the removal of an OBC member, the OBC meeting must be held within 45 days after receiving the Judiciary's decision; and the removal request/petition must be dismissed if there is no quorum at the special OBC meeting. [4.12]
2. There are now two ways (instead of one) to begin the removal process:
  - **Petition.** The current petition process would continue to be available. [4.9-3]
  - **Removal Request.** The amendments would enable a Tribal entity to submit a formal request to remove one of its elected officials, instead of submitting a petition. In order to do this; the entity must, by majority vote, approve taking such action. [4.9-4]
    - A removal request is treated much the same as a signed petition - for example, the official may request that the Judiciary review the validity of the action taken by the entity, just as s/he would be able to request that the Judiciary review the validity of the signatures on a petition. [4.10-3] For the preliminary and formal hearings before the Judiciary; the entity is deemed to be the other party to the action (instead of the petitioner), and is responsible for proving the allegations against the elected Official at the formal hearing. [4.11-2 and 4.11-3]

#### *Grounds for Removal*

A few changes are made to the grounds for removal set out in the Law – *i.e.* the reasons OBC members and other elected officials can be removed from office:

- Any official can still be removed from office for failing to attend four regularly scheduled meetings without a written explanation; but the amendments clarify that this only applies if the official misses all four meetings within a single term; without an excused written explanation. [4.4-1(a) and 4.4-2(a)]
- Any official can still be removed if s/he no longer meets the qualifications for office, but the amendments clarify that OBC members, this means the qualifications for office as identified in the Oneida Constitution; and for all other officials, it means the qualifications for office as identified in by-laws and Tribal law. [4.4-1(a) and 4.4-2(a)]
- OBC members can still be removed for violating a Tribal law which specifies removal as a penalty; but a new provision adds that all other elected officials, except OBC members, can be removed from office for violating:
  - their entity's by-laws, operating agreements, or standard operating procedures, or
  - laws, policies or regulations of the Tribe. [4.4-1(c)]

This means OBC members would be the only elected officials that could only be removed from office for violating a Tribal law if that law specified removal as a penalty. All other elected officials could be removed from office for violating any Tribal law, or



their entities' bylaws, operating agreements, or standard operating procedures, or any other Tribal policies or regulations.

#### *Other Changes*

The following are additional changes that would be made to the Law:

- Petitioners would be required to use an official petition form, obtained through the Tribal Secretary's Office, instead of creating their own form. Petitions are no longer required to include an oath verifying that the circulator witnessed each person sign the petition, that each signature is genuine, and that the petition was signed in the presence of the witness on the date indicated. [4.5-2 and 4.9-3(a)]
- Currently, a petition must state the facts and grounds for removal in 200 words or less. Under the amendments, the limit is increased to 300 words or less, and this requirement also applies to removal requests. [4.5-3 and 4.9-3]
- After a hearing, the Judiciary issues a decision, instead of "findings". The Judiciary would still forward their decision to the Tribal Chair, but the amendments appear to authorize the Chair to designate another person to whom the decision must be sent instead. [4.7-3 and 4.11-3]
- The Law no longer specifically requires the Tribal Chair to call a GTC meeting within 45 days of receiving the Judiciary's findings; instead it states that a GTC meeting shall be held within 45 days after receiving the Judiciary's decision. [4.8-1]
- New language adds that the OBC and GTC determinations (about whether to remove an OBC member or elected official) are not appealable. [4.8-5 and 4.12-5]
- Currently, the Law addresses what must happen if the elected official sought to be removed is a member of the Judiciary - the Clerk of Courts must convene a panel of three judges who are members of the Wisconsin Tribal Judges Association to carry out the Judiciary's responsibilities. That language is deleted.

#### **Miscellaneous**

Various language and formatting changes are made to reflect the fact that the OBC officials are subject to different removal requirements; and the Adoption; Amendment; Repeal language (Section 2) was revised to comply with the Legislative Procedures Act. Except as described above; these changes do not affect the content of the Law.

A public meeting was held for this item on April 30, 2015. The comments received by the LOC during that public meeting and following public comment period have been reviewed and considered for this draft.

#### **Considerations**

The following are issues the LOC may want to consider:

- **Application to the Judiciary.** The Law no longer specifically addresses what would happen if removal of a Judge of the Judiciary is sought. Removal of Judges raises a few issues:
  - There may be confusion as to whether or how this Law applies to Judges of the Judiciary. The Removal Law defines (and applies to) an elected official as any person elected to a position; or appointed to vacancies on an elected position; on a Tribal board, committee or commission. [4.3-1(b)] Judges are generally elected officials, but the Judiciary is not typically considered a Tribal Board, Committee or Commission. Also, the Judiciary Law sets out a disciplinary process for Judges, stating that "Where a disciplinary report recommends that a Judge be removed from office, removal proceedings shall be commenced in accordance with applicable removal law." [Judiciary Law, 150.12-6(d)(3)] If this Law does



not apply to Judges, then there is no existing removal law to govern removal of judges.

*Recommendation:* Add language to this Law clarifying whether this Law applies to Judges of the Judiciary; or whether a separate removal law would need to be established for Judges.

- Under the Judiciary Law, there is a separate disciplinary process for judges. This process includes an initial and then formal hearing before a disciplinary panel. The panel ultimately issues a disciplinary report; and the Judiciary is required to immediately carry out the disciplinary action ordered in that report. If removal is recommended, “removal proceedings are commenced in accordance with applicable removal law.” [Judiciary Law, 150.12-6(d)(3)] Under the Removal law, this would mean that the Judiciary would then either need to petition, or submit a removal request - the Removal Law does not mention anything about a separate process for Judges. This would also mean that a Judge would be subject to multiple, repetitive hearings – the disciplinary panel would first conduct an initial hearing to determine if probable cause exists; and then a full hearing (where the Judge can present testimony/evidence, and cross-examine witnesses) to determine an appropriate penalty (removal is only one penalty that could be imposed). After both of those hearings, if removal is ordered, this Law would again require the same hearings for a Judge as for all other elected officials. Nearly duplicative hearings may not be the most efficient use of Tribal resources – not to mention it would be a substantial burden for a Judge.

*Recommendation:* There are various options that could resolve this issue. One suggestion would be to add language to this Law and/or to the Judiciary law, to clarify that when a disciplinary panel orders removal of a Judge, then the hearings required under the Removal law are bypassed, and the Disciplinary Report shall be forwarded directly to the Tribal Chair who must then call a special OBC/GTC meeting.

- **Preliminary Review and Motions to Challenge Validity.** The Judiciary is required to schedule a preliminary review, which must take place within 20 days after the Judiciary receives a petition or removal request from the Tribal Secretary. [4.6-1 and 4.10-1] Also, an official can file a motion to challenge the validity of a petition’s signatures or the entity’s action that authorized a removal request – which must be filed within 20 days after the Official is served with the petition or removal request. [4.6-3 and 4.10-3]

- There is no timeline for the motion to challenge the validity of the signatures or entity action. Also, it appears that the motion is unrelated to the preliminary review.

*Recommendation:* In the interest of judicial economy, it may be beneficial to require the respondent to file the motion in time to have it heard during the preliminary review. Otherwise, at a minimum, it is recommended that a timeline be added for when the motion must be heard and decided by.

- When a person files a motion challenging the authenticity of signatures or validity of an entity’s action in making a removal request; it is not clear who has the burden of proof or what that burden of proof might be. By comparison, at a hearing, the party seeking the removal of an Elected Official has the burden of proving by clear and convincing evidence that ground(s) for removal exist. [4.11-2]

*Recommendation:* Identify legal standards and/or burden of proof so that the Judiciary may more easily interpret this Law and not have to develop their own



standards for determining what either party must show or prove in order to prevail on such a motion.

## Chapter 4 REMOVAL LAW

### 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 Resolution GTC.

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, for the purposes of this Law, any person elected to a position on a board, committee or commission of the Oneida Tribe of Indians of Wisconsin and those appointed to vacancies in elected position on a board, committee or commission. For the purpose of this Law, this definition will exclude members of the Oneida Business Committee who are subject to separate removal provisions under this Law.



(c) “Eligible voter” means a person able to vote under the Constitution of the Oneida Tribe of Indians of Wisconsin.

(d) “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.

(ee) “Tribe or Tribal” 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 per term without an excused 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) failure to continue to meet the qualifications for office as identified in the Oneida Constitution;

(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 per term without ~~a~~ an excused 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, or Standard Operating Procedures of the board, committee or commission and laws, policies or regulations of the Tribe;

(d) intentional mis-use of Tribal funds;

~~(de)~~ alcohol use while performing official responsibilities or use of illegal drugs at any time;

~~(e) if he or she no longer meets~~ (f) failure to continue to meet the qualifications for office as identified in by-laws and Tribal law;

~~(fg)~~ violating a Tribal law which specifies removal as a penalty; or

~~(gh)~~ felony conviction while in office.

#### 4.5. ~~Petition~~ Removal – 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~~ may request the removal of more than one (1) ~~elected official~~ Oneida Business Committee member.

4.5-2. The petitioner shall use an official petition shall form as designated by this Law, which may be obtained through the Tribal Secretary’s Office. The petition must, at a minimum, include appropriate lines for the eligible voters’:

(a) printed name;

(b) signature;

(c) street address; and

(d) Oneida Tribal Enrollment Number.



4.5-3. The petition must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than ~~two~~three hundred (~~200~~300) words, and must be signed by ~~fifty (50) or more eligible voters or~~ a number of eligible voters equal to at least thirty (~~30~~) percent (30%) of the ~~vote~~votes cast in the previous general election, ~~whichever is greater. A petition may not be amended after it is filed with the Tribal Secretary.~~

4.5-24. The petition ~~shall~~must be filed with the Tribal Secretary's Office within thirty (30) calendar days after the date the first signature is obtained on the petition.

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

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

(1) ~~Printed name~~

(2) ~~Signature~~

(3) ~~Street address~~

(4) ~~Enrollment number~~

(b) ~~An oath verifying~~may not be amended after it is filed with the ~~fact that:~~Tribal Secretary.

(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-~~54~~. 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-~~56~~. 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. for lack of requisite signatures. No additional names may be added to the petition, and the petition ~~shall~~may not be used in any other proceeding.

4.5-~~67~~. 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~~Oneida Business Committee member sought to be removed and forward a copy of the same to the Judiciary.

4.5-~~78~~. 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~~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~~Oneida Business Committee member whose removal is sought. The motion ~~shall~~must 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:~~Oneida Business Committee member sought to be removed. The motion must be in writing and the grounds limited to the authenticity of the signatures.

4.6-4. This motion must be heard in the presence of the parties, who may be represented by Counsel during the review. The Judiciary shall provide the parties the opportunity to present evidence and testimony only as to the authenticity of the signatures. If the Judiciary determines that a petition contains less than the required number of valid signatures, the petition shall be dismissed and the matter shall be at an end.

(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. 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~~has 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 shall have~~Oneida Business Committee member has the burden of proving by clear and convincing evidence that ground(s) for removal exist.

~~4.7-3. Findings Decision.~~ The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, schedule a hearing to 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 decision~~ to the Tribal ~~Chair~~Chairperson and or designee.

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

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

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

~~4.8-3. Determination.~~ An ~~elected official~~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~~must be dismissed.

~~End.~~

4.8-5. *Non-appealable.* There is no appeal from the determination of the General Tribal Council.

#### **4.9. Removal – 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, which must be filed with the Tribal Secretary's Office within thirty (30) calendar days after:

(a) the date the first signature is obtained on the petition; or

(b) the board, committee or commission adopts the removal request.

4.9-2. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly 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 or removal request.

4.9-3. *Petitions.* Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an Elected Official. No petition may request the removal of more than one (1) Elected Official. The petition must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than three hundred (300) words, and must be signed by a number of eligible voters equal to at least thirty percent (30%) of the vote cast in the previous general election. A petition may not be amended after it is filed with the Tribal Secretary.

(a) The petitioner shall use an official petition form as designated by this Law which may be obtained through the Tribal Secretary's Office. The petition must, at a minimum, include appropriate lines for the eligible voters':

(1) printed name;

(2) signature;

(3) street address; and

(4) Oneida Tribal Enrollment Number.

(b) The Tribal Secretary shall promptly 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.

(1) If the Enrollment Department determines that a 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, the matter at an end for lack of requisite signatures. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

(2) If the Enrollment Department determines that a petition contains the requisite number of signatures, 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.

4.9-4. *Removal Requests.* A board, committee, or commission may file a removal request for one of its members with the Tribal Secretary after adoption of a majority vote of the board, committee or commission regarding the removal request. No removal request may request the removal of more than one (1) Elected Official. The removal request must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than three



hundred (300) words. A removal request may not be amended after it is filed with the Tribal Secretary.

(a) Upon verification by the Tribal Secretary of the action the board, committee or commission adopting the removal request, 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.

(b) If the Tribal Secretary determines that a removal request does not meet the requirements of 4.9-4, the Tribal Secretary shall so certify to the Oneida Business Committee and file the removal request without taking further action, the matter at an end for lack of valid action by the board, committee or commission.

#### **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 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 must 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 must be in writing and the grounds limited to either of the following:

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

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

4.10-4. The motion must be heard in the presence of the parties, who may be represented by Counsel during the review. The Judiciary shall provide the parties with the opportunity to present evidence and testimony only as to the authenticity of the signatures and the validity of the action taken by a board, committee or commission in approving a removal request. If the Judiciary determines that a petition contains less than the required number of valid signatures, or the action taken by a board, committee or commission in approving a removal request was invalid, the Judiciary shall dismiss the petition and the matter shall be at an end.

#### **4.11. Hearing – Elected Official**

4.11-1. *Rights of Elected Official at Hearing.* An Elected Official whose removal is sought has 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 party seeking the removal of an Elected Official has the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.11-3. *Decision.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, schedule a hearing to 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 decision to the Tribal Chairperson and or designee.

**4.12. Final Determination at Oneida Business Committee Meeting – Elected Official**

4.12-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the decision from the Judiciary, a special Oneida Business Committee meeting must be held to consider the decision.

4.12-2. *Right to address the Oneida Business Committee.* An Elected Official whose removal is sought has 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.

4.12-4. *Quorum.* If the meeting of the Oneida Business Committee fails to obtain a quorum, the removal request must be dismissed.

4.12-5. *Non-appealable.* There is no appeal from the determination of the Oneida Business Committee.

End.

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

## Chapter 4 REMOVAL LAW

### Kwah Oná Aluwalihutákwas Kayanláhsla

Just when they will remove him our kind of laws

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

#### 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 Resolution GTC-01-09-06-A and amended by Resolution BC-05-28-14-B and by Resolution GTC\_\_\_\_\_.

4.2-2. This Law may be amended or repealed by the General Tribal Council 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. 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 used 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) "Elected Official" means, for the purposes of this Law, any person elected to a position on a board, committee or commission of the Oneida Tribe of Indians of Wisconsin and those appointed to vacancies in elected position on a board, committee or commission. For the purpose of this Law, this definition will exclude members of the

Oneida Business Committee who are subject to separate removal provisions under this Law.

(c) "Eligible voter" means a person able to vote under the Constitution of the Oneida Tribe of Indians of Wisconsin.

(d) "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.

(e) "Tribe or Tribal" 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 per term without an excused 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) failure to continue to meet the qualifications for office as identified in the Oneida Constitution;

(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 per term without an excused 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;

(c) violation of the by-laws, operating agreements, or Standard Operating Procedures of the board, committee or commission and laws, policies or regulations of the Tribe;

(d) intentional mis-use of Tribal funds;

(e) alcohol use while performing official responsibilities or use of illegal drugs at any time;

(f) failure to continue to meet the qualifications for office as identified in by-laws and Tribal law;

(g) violating a Tribal law which specifies removal as a penalty; or

(h) felony conviction while in office.

#### **4.5. Removal – Oneida Business Committee**

4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an Oneida Business Committee member. No petition may request the removal of more than one (1) Oneida Business Committee member.

4.5-2. The petitioner shall use an official petition form as designated by this Law, which may be obtained through the Tribal Secretary's Office. The petition must, at a minimum, include appropriate lines for the eligible voters':

(a) printed name;

(b) signature;

(c) street address; and



(d) Oneida Tribal Enrollment Number.

4.5-3. The petition must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than three hundred (300) words, and must be signed by a number of eligible voters equal to at least thirty percent (30%) of the votes cast in the previous general election.

4.5-4. The petition must be filed with the Tribal Secretary's Office within thirty (30) calendar days after the date the first signature is obtained on the petition. A petition may not be amended after it is filed with the Tribal Secretary.

4.5-5. 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 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.

4.5-6. 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, the matter shall be at an end for lack of requisite signatures. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

4.5-7. 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 Oneida Business Committee member sought to be removed and forward a copy of the same to the Judiciary.

4.5-8. 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 Oneida Business Committee member whose removal is sought. The motion must be filed within twenty (20) calendar days of service of the certified copy of the petition upon the Oneida Business Committee member sought to be removed. The motion must be in writing and the grounds limited to the authenticity of the signatures.

4.6-4. This motion must be heard in the presence of the parties, who may be represented by Counsel during the review. The Judiciary shall provide the parties the opportunity to present evidence and testimony only as to the authenticity of the signatures. If the Judiciary determines that a petition contains less than the required number of valid signatures, the petition shall be dismissed and the matter shall be at an end.

**4.7. Hearing – Oneida Business Committee**

4.7-1. *Rights of Oneida Business Committee Member at Hearing.* An Oneida Business Committee member whose removal is sought has 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 Oneida Business Committee member has the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.7-3. *Decision.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed schedule a hearing to 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 decision to the Tribal Chairperson and or designee.

**4.8. Final Determination at General Tribal Council Meeting – Oneida Business Committee**

4.8-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the decision from the Judiciary, a special General Tribal Council meeting must be held to consider the decision.

4.8-2. *Right to address the Council.* An Oneida Business Committee member whose removal is sought has the right to address the General Tribal Council personally.

4.8-3. *Determination.* 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 must be dismissed.

4.8-5. *Non-appealable.* There is no appeal from the determination of the General Tribal Council.

**4.9. Removal – 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, which must be filed with the Tribal Secretary's Office within thirty (30) calendar days after:

(a) the date the first signature is obtained on the petition; or

(b) the board, committee or commission adopts the removal request.

4.9-2. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly 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 or removal request.

4.9-3. *Petitions.* Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an Elected Official. No petition may request the removal of more than one (1) Elected Official. The petition must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than three hundred (300) words, and must be signed by a number of eligible voters equal to at least thirty percent (30%) of the vote cast in the previous general election. A petition may not be amended after it is filed with the Tribal Secretary.

(a) The petitioner shall use an official petition form as designated by this Law which may be obtained through the Tribal Secretary's Office. The petition must, at a minimum, include appropriate lines for the eligible voters':

- (1) printed name;
- (2) signature;
- (3) street address; and
- (4) Oneida Tribal Enrollment Number.

(b) The Tribal Secretary shall promptly 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.

(1) If the Enrollment Department determines that a 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, the matter at an end for lack of requisite signatures. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

(2) If the Enrollment Department determines that a petition contains the requisite number of signatures, 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.

4.9-4. *Removal Requests.* A board, committee, or commission may file a removal request for one of its members with the Tribal Secretary after adoption of a majority vote of the board, committee or commission regarding the removal request. No removal request may request the removal of more than one (1) Elected Official. The removal request must state with particularity the facts upon which it is based and the specific grounds for removal, in not more than three hundred (300) words. A removal request may not be amended after it is filed with the Tribal Secretary.

(a) Upon verification by the Tribal Secretary of the action the board, committee or commission adopting the removal request, 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.

(b) If the Tribal Secretary determines that a removal request does not meet the requirements of 4.9-4, the Tribal Secretary shall so certify to the Oneida Business Committee and file the removal request without taking further action, the matter at an end for lack of valid action by the board, committee or commission.

#### **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 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 must 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 must be in writing and the grounds limited to either of the following:

- (a) the authenticity of the signatures on a petition; or
- (b) the validity of the action taken by a board, committee or commission in approving a removal request.

4.10-4. The motion must be heard in the presence of the parties, who may be represented by Counsel during the review. The Judiciary shall provide the parties with the opportunity to present evidence and testimony only as to the authenticity of the signatures and the validity of the action taken by a board, committee or commission in approving a removal request. If the Judiciary determines that a petition contains less than the required number of valid signatures, or the action taken by a board, committee or commission in approving a removal request was invalid, the Judiciary shall dismiss the petition and the matter shall be at an end.

#### **4.11. Hearing – Elected Official**

4.11-1. *Rights of Elected Official at Hearing.* An Elected Official whose removal is sought has 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 party seeking the removal of an Elected Official has the burden of proving by clear and convincing evidence that ground(s) for removal exist.

4.11-3. *Decision.* The Judiciary shall, within twenty (20) calendar days after the preliminary review has been completed, schedule a hearing to 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 decision to the Tribal Chairperson and or designee.

#### **4.12. Final Determination at Oneida Business Committee Meeting – Elected Official**

4.12-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the decision from the Judiciary, a special Oneida Business Committee meeting must be held to consider the decision.

4.12-2. *Right to address the Oneida Business Committee.* An Elected Official whose removal is sought has 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.

4.12-4. *Quorum.* If the meeting of the Oneida Business Committee fails to obtain a quorum, the removal request must be dismissed.

4.12-5. *Non-appealable.* There is no appeal from the determination of the Oneida Business Committee.

*End.*

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





# Legislative Operating Committee

## September 16, 2015

# Administrative Rulemaking Law

**Submission Date:** 09/17/14

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** Tehassi Hill

**Summary:** *This item was carried over into the current term by the LOC. Originally submitted to the LOC on April 13, 2012; the proposal seeks a consistent process for the adoption of administrative rules by Tribal agencies that have been granted rulemaking authority under other Tribal laws.*

**9/17/14 LOC:** Motion by Tehassi Hill to add the Rulemaking Law to the Active Files List with Tehassi Hill as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

**8/19/15 LOC:** Motion by Fawn Billie to defer the Rulemaking Law, with the noted changes, to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; and to bring an update to the September 16, 2015 LOC meeting and to bring back the legislative analysis within 60 days; seconded by Tehassi Hill. Motion carried unanimously.

### Next Steps:

- Defer to the October 21, 2015 LOC meeting when the sponsor will bring back with a legislative analysis as directed on August 19, 2015.

# Oneida Tribe of Indians

**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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** Tehassi Hill, Vice Chairperson *T.H.*  
**Date:** September 16, 2015  
**Re:** Administrative Rulemaking Law

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On April 13, 2012, a request to create an Administrative Rulemaking Law was submitted to the Legislative Operating Committee (LOC). On September 17, 2014, this LOC added the Administrative Rulemaking Law to the active files list, with myself as the sponsor. A draft was brought the LOC for review at the August 19, 2015 LOC meeting, at which time revisions were directed and the Law with said revisions was deferred for the analyses required pursuant the Legislative Procedures Act. At the same meeting the LOC directed an update be provided at the September 16, 2015 LOC meeting and that the legislative analysis be completed no later than sixty days from the August 19, 2015 meeting. This memorandum serves as the September 16, 2015 update as to where the analyses are in the LOC process.

Since the first draft was brought to the LOC the Legislative Reference Office made the revisions that were requested in the August 19, 2015 LOC meeting. The revised draft was provided to the parties responsible for the analyses on August 27, 2015. Both required analyses remain in progress.

I am asking that you defer this item back to my office for further work and I will bring back the legislative analysis no later than the October 21, 2015 LOC meeting in order to meet the sixty day requirement.

**Requested Action**

Motion to accept the memorandum regarding the status of the Administrative Rulemaking Law as FYI.



# Legislative Operating Committee

## September 16, 2015

# Garnishment Ordinance Amendments

**Submission Date:** 8/5/15

☐ Public Meeting:  
☐ Emergency Enacted:  
Expires:

**LOC Sponsor:** David P. Jordan

**Summary:** *This item was brought to the LOC by the Judiciary to request an amendment to the ordinance which would allow the Judiciary to include interest when a garnishment is ordered as some creditors have been requesting interest, and the Judiciary has been denying it because the ordinance is silent.*

**8/5/15 LOC:** Motion by David P. Jordan to add the Garnishment Ordinance Amendments to the active files list with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

- **Next Steps:** Review the draft and provide feedback; consider deferring for the required analyses.

**Chapter 58**  
**Garnishment Ordinance**  
Lotihwistáhkwa Olihwa·ke  
the matter of taking money out

- |                                    |                                     |
|------------------------------------|-------------------------------------|
| 58.1. Purpose and Policy.          | 58.4. Garnishment Action Procedure. |
| 58.2. Adoption, Amendment, Repeal. | 58.5. Recognition of Order.         |
| 58.3. Definitions.                 | 58.6. Discharge from Employment.    |
- 

**58.1-1. Purpose and Policy.**

58.1-1. The purpose of this Ordinance is to utilize the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt.

58.1-2. ~~\_\_\_~~—It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due process.

**58.2-1. Adoption, Amendment, Repeal.**

58.2-1. This law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-G and amended by resolution BC-06-25-14-B.

58.2-2. ~~\_\_\_~~ This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or Oneida General Tribal Council.

58.2-3. ~~\_\_\_~~ Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall~~does not affect other provisions of this law which are considered to have legal force without the invalid portions.

58.2-4. ~~\_\_\_~~ 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 policy.

58.2-5. ~~\_\_\_~~ This law may be cited as the "Garnishment Ordinance."

58.2-6. ~~\_\_\_~~ This law may be interpreted to allow the fullest protections available to respondents available by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws protecting respondents in Child Support Orders, and other federal laws.

**58.3-1. Definitions.**

58.3-1. This Article ~~shall~~governs the definitions of words or phrases as used herein. All words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

58.3-2. (a) "Accounting Department" means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.

(b) "Administrative Fee" is the fee to cover the Accounting Department's costs associated with enforcing Garnishment Orders.

(c) "Compensation" shallmeans remuneration paid or payable for personal services and travel, denominated as wages, bonuses, salary, expenses, and/or mileage. Compensation ~~shall~~includes any trade-back-for-cash benefit or final paycheck involving pay-out of benefits for a discharged employee.



~~58.3.3.~~ (d) “Creditor” ~~shall~~ refers to one who seeks payment from the respondent through the process of garnishment, pursuant to a Final Judgment through a garnishment action. The ~~Oneida~~ Tribe is not excluded from being the creditor. This includes all departments, programs, enterprises, authorities, or other bodies created pursuant to ~~Tribal~~ the laws of the Tribe. Should the ~~Oneida~~ Tribe be the creditor, a designee of the department, program or enterprise shall represent the claim of indebtedness.

~~58.3.4.~~ (e) “Employee” ~~shall~~ means any employee of the ~~Oneida~~ Tribe.

~~58.3.5.~~ (f) “~~Oneida~~ Tribe” ~~shall~~ means the Oneida Tribe of Indians of Wisconsin.

~~58.3.6.~~ (g) “Garnishment” ~~shall~~ means the process in which claims may be made by a Creditor against money Compensation due to the Employee Respondent that is in the hands of the ~~Oneida Tribe of Indians of Wisconsin~~ Tribe, as the Respondent’s employer; due to the respondent and are being claimed by a creditor.

(h) “Garnishment Action Fee” the fee to cover the Judiciary’s administrative costs incurred in considering a Petition for Wage Garnishment.

(i) “Garnishment Hearing” is the time and place where the Judiciary will hear evidence presented based on which the Judge shall render a determination as to the validity of the Petition for Wage Garnishment made by the Creditor and the amount of the Garnishment Order to be entered.

(j) “Garnishment Order” is the order issued by the Judiciary when is determines that a Petition for Wage Garnishment is valid and includes the amount of the order based on the relevant judgment as well as any fees or interest that may be assessed against the Respondent under Section 58.4-5.

~~58.3.7.~~ (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.

~~58.3.8.~~ (l) “Reservation” ~~shall~~ means all lands within the exterior boundaries of the Oneida Indian Reservation of Wisconsin as established by the Treaty with the Oneida, 1838.

~~58.3.9.~~ (m) “Respondent” also known as “Debtor” ~~shall~~ means the ~~employee~~ Employee of the ~~Oneida~~ Tribe who is subject to a garnishment action within the Oneida Tribe pursuant to this Law or the person subject to a repayment action.

~~58.3.10.~~ (n) “~~Hearing Officer~~ Judge” ~~shall~~ means the ~~Judiciary and the representative designated~~ member of the Judiciary assigned to hear the Petition for Wage Garnishment ~~garnishment action.~~

~~58.3.11. “Accounting Department” means that department of the Oneida Tribe charged with managing the finances of the Oneida Tribe, specifically, the office charged with responsibility for the payroll of the Oneida Tribe. That office shall designate a representative for receiving garnishment orders, irrevocable voluntary payroll deduction agreements, and child support orders, which shall be forwarded to the Hearing Body.~~

#### **58.4-1. Garnishment Action Procedure.**

~~58.4.1.~~ Judgment Required. A ~~creditor~~ Creditor ~~shall may begin a~~ file a Petition for Wage Garnishment ~~garnishment action~~ against an ~~employee~~ Employee of the ~~Oneida~~ Tribe by first obtaining a final judgment from an appropriate court. A ~~garnishment~~ Garnishment action under this section ~~shall may~~ not begin unless the ~~creditor~~ Creditor has already obtained a valid final

judgment and can show proof of judgment to the ~~Hearing Officer~~ Judiciary when presenting the claim.

~~58.4-2. Filing Action. The creditor shall be responsible for notifying the Hearing Officer of its intent to begin the garnishment action.~~

~~(a) In order to initiate a Garnishment, A~~ a Petition for Wage Garnishment, which is made available through the Judiciary, written notice shall must be mailed or given to filed with the Hearing Officer Judiciary. At a minimum, the Petition for Wage Garnishment filed with the Judiciary indicating must identify the creditor Creditor, the intended respondent Respondent, the reason for the claim, and the amount of the claim and the name of the court that issued the judgment upon which the Petition is based. Additionally, a copy of the said judgment must be filed along with the Petition for Wage Garnishment.

(a) In order for a Petition for Wage Garnishment submittal to be considered complete, the Creditor shall pay, to the Judiciary, the Garnishment Action Fee. The Judiciary will not consider the Petition for Wage Garnishment until the said fee is paid. Should the Judiciary issue a decision to garnish, the Judiciary shall charge said fee to the Respondent and reimburse the Creditor for payment of said fee through the Garnishment Order.

(1) The Judiciary shall determine the amount of the Garnishment Action Fee and post notice of such fee amount both in the Oneida Judiciary Center building and on the Tribe's website on the Register's page.

(2) Entities, departments and programs of the Tribe are exempt from the requirement to pay the Garnishment Action Fee under this Section. However, should the Judiciary issue a decision to garnish in a Petition for Wage Garnishment initiated by an Entity, department or program of the Tribe, the Judiciary shall charge the Garnishment Action Fee directly to the Respondent through the Garnishment Order.

~~(b) The Hearing Officer shall, within ten days, set a date and time for a garnishment hearing. The date for the hearing shall be within sixty days of receipt of the first notification to the Hearing Officer.~~

~~(c) It is the responsibility of the Hearing Officer to notify the creditor, respondent, and any other parties in interest as to the date, time and place of the garnishment hearing.~~

~~58.4-3. Garnishment Hearing. A Garnishment Hearing is the time and place where the Judiciary will hear evidence presented based on which the Judge shall render a determination as to the validity of the Petition for Wage Garnishment made by the Creditor and the amount of the Garnishment Order to be entered.~~

(a) Within ten (10) business days of the Creditor's meeting the requirements of under Section 58.4-2 for filing a Petition for Wage Garnishment, the Judiciary shall set a date, time and location for a Garnishment Hearing. The date for the Garnishment Hearing must be within sixty (60) days of the Judiciary's receipt of the Petition for Wage Garnishment.

(1) Upon setting the date, time and location of the Garnishment Hearing, the Judiciary shall provide written notice of such to the Creditor, the Respondent and any other interested parties.

(b) A Judge may not reconsider the validity of the judgment upon which the Petition for Wage Garnishment is based at a Garnishment Hearing, other than the authenticity of the judgment document.

(c) A Garnishment Hearing may be used to resolve one (1) or more Petitions for Wage Garnishments of one (1) or more Employees. However, each Petition for Wage Garnishment must be heard and determined separately. The Hearing Officer shall

~~establish a designated date, time, and place to hear evidence in order to render a determination as to the validity of a claim by the creditor in a garnishment action and the amount of the garnishment order to be entered. Hearings shall not be utilized to challenge the validity of the final judgement other than the authenticity of the document. The time may be used to resolve one or more deduction claims of one or more employees. However, each claim shall be heard and determined separately. This hearing will be known as the Garnishment Hearing.~~

(d) The Respondent and Creditor may represent themselves or be represented by someone to speak on their behalf, if they so choose. Both parties shall have an equal opportunity to present evidence as to the Petition for Wage Garnishment before the Judiciary at the Garnishment Hearing.

58.4-4. Final Decision. The Judge shall make the final decision as to the Petition for Wage Garnishment within five (5) business days of the Garnishment Hearing and shall provide written notice of said decision to all parties within ten (10) days of his or her decision. Should the Judge issue a decision to garnish, the written notice of the decision must be accompanied by the Garnishment Order.

58.4-5. Garnishment Orders. Should the Judiciary issue a decision to garnish based on the Garnishment Hearing, the Garnishment Order must consider the following:

(a) Administrative Fee. An Administrative Fee must be included in each Garnishment Order to be deducted per pay period in addition to the amount of Garnishment entered based on the Petition for Wage Garnishment pursuant to the judgment. The Judiciary shall specify that the Administrative Fee will be assessed against the Respondent until the amount of the Garnishment Order is paid in full.

(1) The Accounting Department shall determine the amount of the Administrative Fee and post notice of such fee amount both with the Judiciary to be posted in the Oneida Judiciary Center building and on the Tribe's website on the Register's page.

(c) Garnishment Action Fee. The Garnishment Action Fee must be included in all Garnishment Orders and must be passed along the Creditor, unless the Creditor is an Entity, department or program of the Tribe, in which case, once collected, the Garnishment Action Fee is payable to the Judiciary.

(b) Amount of the Garnishment. The Judge must begin with a presumption that a total of twenty (20) percent of a Respondent's disposable earnings per pay period may be subject to Garnishment(s) at any one time; the remainder of such Compensation will be identified as protected subsistence allowance. In calculating the amount of the Garnishment per pay period, the Judge may not include amounts garnished pursuant to child support orders within the maximum amount of up to twenty (20) percent of the Employee's disposable earnings per pay period.

(1) Should the Respondent desire a lesser amount than twenty (20) percent of the his or her disposable earnings per pay period to be deducted, he or she is responsible for presenting evidence at the Garnishment Hearing that requiring the full twenty (20) percent to be deducted each pay period would cause the him or her undue harm.

(i) Examples of situations where deducting the full twenty (20) percent of the Respondent's disposable earnings per pay period may cause the Respondent undue harm may include, but are not limited to, cases where:

- (a) the Respondent is subject to child support orders that would leave the Respondent with less than fifty (50) percent of his or her Compensation per pay period; or
- (b) the Respondent receives, is eligible for or, within six (6) months of the date the Petition for Wage Garnishment was filed with the Judiciary, received public assistance; or
- (c) The Respondent's household income is below the current federal poverty level; or
- (d) The Garnishment of twenty (20) percent of the Respondent's disposable earnings per pay period would cause the Respondent's household income to drop below the current federal poverty level.

(2) An Employee may request that more than the amount determined by the Judge to be deducted each pay period. Such requests must be made directly to the Judiciary.

(c) Post Judgment Interest. The Judge shall include in each Garnishment Order post judgment interest at an annual rate equal to one (1) percent plus the prime rate in effect on January 1<sup>st</sup> of the year in which the judgment is entered if the judgment is entered before June 30<sup>th</sup> of that year or in effect on July 1<sup>st</sup> of the year in which the judgment is entered if the judgment is entered after June 30<sup>th</sup> of that year, as reported by the federal reserve board in federal reserve statistical release H. 15, on the amount recovered from the date of the entry of the judgment until it is paid.

OR

(c) Post Judgment Interest. The judge shall include in each Garnishment Order post judgment interest at an annual rate which the Oneida Business Committee shall establish, by resolution. The said annual interest rate remains in effect until such time as it is amended by an Oneida Business Committee resolution.

~~58.4-4. Final Decision. The Hearing Officer will make the final decision as to the garnishment action within five days of the garnishment hearing and notify by formal order all parties within ten days of the decision.~~

~~58.4-5. Representation. The respondent and creditor may represent themselves or be represented by someone to speak on their behalf, if they so choose. Both parties shall have an equal opportunity to present evidence as to the action to be taken before a Hearing Officer at the garnishment hearing.~~

~~58.4-6. Notice of Garnishment to Accounting Department. Should the Judiciary issue a decision to garnish, once the appeal period under Section 58.4-9 has passed, The Hearing Officer the Judiciary will shall notify provide the Accounting Department with notice of the Garnishment including the amount to be garnished, how long the garnishment will take place or the number of Garnishments, any related fees authorized under this Ordinance and a should a decision to garnish an employee's compensation be made copy of the Garnishment Order. Such notice shall be forwarded after the deadline for an appeal has passed. Provided that, nNo garnishments Garnishment Orders shall may be forwarded to the Accounting Department to be implemented for which be allowed where an appeal has been filed by an employee Employee within the appeal deadlineperiod provided under Section 58.4-9. The notice shall contain the amount to be garnished, how long the garnishment will take place or the number of garnishment and any related fees authorized under this Ordinance.~~

58.4-7. Garnishment Implementation. The Accounting Department shall begin garnishments within ten (10) business days of its receipt of notification of the judgment Garnishment Order by the Judiciary. To implement the Garnishment Order, The the Accounting Department shall then:

- (a) Following each pay period, Send send to the creditor the allowable amount to be garnished from the employee's Employee's paycheck pursuant to the Garnishment Order to the Creditor; and following each payroll period.
- (b) Notify the employee Employee and creditor Creditor when the garnishments Garnishment Order are terminated has been fulfilled.

58.4-8. Summary Process. Where the amount requested to be garnished is based upon a judgment claim of indebtedness is of fifty (50) dollars \$50.00 or less, it the Judiciary shall summarily process the Petition for Wage Garnishment shall be processed summarily by the Hearing Officer, unless the debtor Debtor formally requests a Garnishment hearing Hearing.

58.4-9. Appeals. A respondent has The parties have ten ten (10) business days from the date of receipt of the notice of the notice of the decision issued to file an appeal of a garnishment order the Judiciary's decision regarding the Petition for Wage Garnishment with the Judiciary.

58.4-10. Records. The Hearing Officer Judiciary shall keep complete records of all garnishment Garnishment actions that are started and/or completed. The records shall must contain:

- (a) Correspondence and notices to all parties involved.
- (b) Bookkeeping records.
- (c) Garnishment evidence presented by all parties.
- (d) Decisions made by the Hearing Officer Judge.

~~58.5-1. Garnishment Action Fee. At the time of creditor's first notice to the Hearing Officer, the creditor shall pay a fee of \$25.00 which shall be known as the Garnishment Action Fee. The Hearing Officer is not required to begin any action on the claim until the fee is paid. The fee shall be charged to the respondent should a decision be made to garnish. The fee will be applicable in each case, except that in cases where indebtedness is with a department, program or enterprise of the Oneida Tribe.~~

~~58.5-2. Administrative Fee. An administrative fee of \$5.00 shall be deducted monthly along with the ordered garnishment until the amount claimed is paid in full. This fee is to cover the cost of garnishing as expended by the Accounting Department.~~

~~58.5-3. Amount of Garnishment. The Hearing Officer may order the employee's compensation to be subject to a garnishment of up to twenty percent of the employee's disposable weekly wage, the remainder to be identified as a protected subsistence allowance. Provided that, in calculating twenty percent, the Hearing Officer shall not include amounts garnished regarding child support orders. The employee may voluntarily request more to be deducted. The request shall be made directly to the Accounting Department.~~

~~58.5-4. Exceptions to 20 % Presumption. It is presumed that the beginning amount to be deducted in any garnishment hearing shall begin at twenty percent of the employee's weekly wages. The respondent is responsible for presenting evidence that it is unreasonable to require the full twenty percent to be deducted. Examples of exceptions shall include, but not be limited to, pre-existing garnishment orders, child support orders that would leave less than 50% of the debtor's wages, other evidence presented which would cause garnishments such that additional garnishment orders would cause undue harm.~~

~~58.6-1. Irrevocable Voluntary Payroll Deduction. An employee may request an irrevocable voluntary payroll deduction negotiated with a creditor for legal debts. The request must be signed by the employee and submitted to the Accounting Department.~~

~~58.6-2. Preemption of Garnishment Action. If the request is made prior to a garnishment action decision or during a garnishment action:~~

- ~~(a) The irrevocable voluntary payroll deduction request must be made to the Hearing Officer.~~
- ~~(b) The Hearing Officer shall notify the creditor of the request.~~
- ~~(c) If the parties agree, the Hearing Officer may then cancel the hearing, notify all parties and forward the executed agreement to the Accounting Department.~~

~~58.6-3. Administrative Fee. An administrative fee of \$5.00 shall be assessed monthly so long as the irrevocable voluntary payroll deduction is in effect.~~

#### **58.75-1. Recognition of Order.**

58.5-1. Orders for child support against any ~~employee~~ Employee ~~shall~~ must be recognized and enforced, provided that the order has been issued from a court of competent jurisdiction.

58.7-2-~~Authenticity of Order.~~ The ~~Hearing Officer~~Judiciary ~~shall~~must receive such child support orders; and shall verify the authenticity of ~~the such~~ orders. Upon verification of the child support order, the ~~Hearing Officer~~Judge shall forward such order to the Accounting Department for action.

58.7-3-~~Administrative Fee.~~ An administrative fee of \$5.00 shall be assessed monthly so long as the child support deduction is in effect.

**58.8~~6~~-1. Discharge from Employment.**

~~58.6-1.~~ The ~~Oneida~~Tribe ~~shall~~may not use a Petition for Wage Garnishment as the basis for the discharge of an ~~employee~~Employee~~because an employee is being subjected to garnishment actions.~~

58.8-2-~~Jurisdiction.~~ ~~All creditor filing a garnishment action must sign a Jurisdiction Submission Statement. The statement will indicate that the creditor is submitting to the jurisdiction of the Oneida Tribe in that particular action.~~By filing a Petition for Wage Garnishment with the Judiciary, Creditors are submitting to the jurisdiction of the Tribe for the subject action.

*End.*

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Adopted - BC-6-2-92  
Adopted - BC-6-10-92  
Adopted - BC-4-2-97-G  
Amended - BC-06-25-14-B

**Chapter 58**  
**Garnishment Ordinance**  
Lotihwistáhkwa Olihwa·ke  
the matter of taking money out

58.1. Purpose and Policy.

58.2. Adoption, Amendment, Repeal.

58.3. Definitions.

58.4. Garnishment Action Procedure.

58.5. Recognition of Order.

58.6. Discharge from Employment.

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**58.1. Purpose and Policy.**

58.1-1. The purpose of this Ordinance is to utilize the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt.

58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due process.

**58.2. Adoption, Amendment, Repeal.**

58.2-1. This law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-G and amended by resolution BC-06-25-14-B.

58.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or Oneida General Tribal Council.

58.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this law which are considered to have legal force without the invalid portions.

58.2-4. 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 policy.

58.2-5. This law may be cited as the "Garnishment Ordinance."

58.2-6. This law may be interpreted to allow the fullest protections available to respondents available by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws protecting respondents in Child Support Orders, and other federal laws.

**58.3. Definitions.**

**58.3-1.** This Article governs the definitions of words or phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

(a) "Accounting Department" means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.

(b) "Administrative Fee" is the fee to cover the Accounting Department's costs associated with enforcing Garnishment Orders.

(c) "Compensation" means remuneration paid or payable for personal services and travel, denominated as wages, bonuses, salary, expenses, and/or mileage. Compensation includes any trade-back-for-cash benefit or final paycheck involving pay-out of benefits for a discharged employee.



- (d) “Creditor” refers to one who seeks payment from the respondent through the process of garnishment, pursuant to a Final Judgment through a garnishment action. The Tribe is not excluded from being the creditor. This includes all departments, programs, enterprises, authorities, or other bodies created pursuant to the laws of the Tribe. Should the Tribe be the creditor, a designee of the department, program or enterprise shall represent the claim of indebtedness.
- (e) “Employee” means any employee of the Tribe.
- (f) “Tribe” means the Oneida Tribe of Indians of Wisconsin.
- (g) “Garnishment” means the process in which claims may be made by a Creditor against Compensation due to the Employee Respondent that is in the hands of the Tribe, as the Respondent’s employer.
- (h) “Garnishment Action Fee” the fee to cover the Judiciary’s administrative costs incurred in considering a Petition for Wage Garnishment.
- (i) “Garnishment Hearing” is the time and place where the Judiciary will hear evidence presented based on which the Judge shall render a determination as to the validity of the Petition for Wage Garnishment made by the Creditor and the amount of the Garnishment Order to be entered.
- (j) “Garnishment Order” is the order issued by the Judiciary when it determines that a Petition for Wage Garnishment is valid and includes the amount of the order based on the relevant judgment as well as any fees or interest that may be assessed against the Respondent under Section 58.4-5.
- (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.
- (l) “Reservation” means all lands within the exterior boundaries of the Oneida Indian Reservation of Wisconsin as established by the Treaty with the Oneida, 1838.
- (m) “Respondent” also known as “Debtor” means the Employee of the Tribe who is subject to a garnishment action pursuant to this Law or the person subject to a repayment action.
- (n) “Judge” means the member of the Judiciary assigned to hear the Petition for Wage Garnishment.

#### **58.4. Garnishment Action Procedure.**

58.4-1. Judgment Required. A Creditor may file a Petition for Wage Garnishment against an Employee of the Tribe by first obtaining a final judgment from an appropriate court. A Garnishment action under this section may not begin unless the Creditor has already obtained a valid final judgment and can show proof of judgment to the Judiciary when presenting the claim.

58.4-2. Filing Action. In order to initiate a Garnishment, a Petition for Wage Garnishment, which is made available through the Judiciary, must be filed with the Judiciary. At a minimum, the Petition for Wage Garnishment filed with the Judiciary must identify the Creditor, the intended Respondent, the reason for the claim, the amount of the claim and the name of the court that issued the judgment upon which the Petition is based. Additionally, a copy of the said judgment must be filed along with the Petition for Wage Garnishment.

- (a) In order for a Petition for Wage Garnishment submittal to be considered complete, the Creditor shall pay, to the Judiciary, the Garnishment Action Fee. The Judiciary will not consider the Petition for Wage Garnishment until the said fee is paid. Should the

Judiciary issue a decision to garnish, the Judiciary shall charge said fee to the Respondent and reimburse the Creditor for payment of said fee through the Garnishment Order.

(1) The Judiciary shall determine the amount of the Garnishment Action Fee and post notice of such fee amount both in the Oneida Judiciary Center building and on the Tribe's website on the Register's page.

(2) Entities, departments and programs of the Tribe are exempt from the requirement to pay the Garnishment Action Fee under this Section. However, should the Judiciary issue a decision to garnish in a Petition for Wage Garnishment initiated by an Entity, department or program of the Tribe, the Judiciary shall charge the Garnishment Action Fee directly to the Respondent through the Garnishment Order.

58.4-3. Garnishment Hearing. A Garnishment Hearing is the time and place where the Judiciary will hear evidence presented based on which the Judge shall render a determination as to the validity of the Petition for Wage Garnishment made by the Creditor and the amount of the Garnishment Order to be entered.

(a) Within ten (10) business days of the Creditor's meeting the requirements of under Section 58.4-2 for filing a Petition for Wage Garnishment, the Judiciary shall set a date, time and location for a Garnishment Hearing. The date for the Garnishment Hearing must be within sixty (60) days of the Judiciary's receipt of the Petition for Wage Garnishment.

(1) Upon setting the date, time and location of the Garnishment Hearing, the Judiciary shall provide written notice of such to the Creditor, the Respondent and any other interested parties.

(b) A Judge may not reconsider the validity of the judgment upon which the Petition for Wage Garnishment is based at a Garnishment Hearing, other than the authenticity of the judgment document.

(c) A Garnishment Hearing may be used to resolve one (1) or more Petitions for Wage Garnishments of one (1) or more Employees. However, each Petition for Wage Garnishment must be heard and determined separately.

(d) The Respondent and Creditor may represent themselves or be represented by someone to speak on their behalf, if they so choose. Both parties shall have an equal opportunity to present evidence as to the Petition for Wage Garnishment before the Judiciary at the Garnishment Hearing.

58.4-4. Final Decision. The Judge shall make the final decision as to the Petition for Wage Garnishment within five (5) business days of the Garnishment Hearing and shall provide written notice of said decision to all parties within ten (10) days of his or her decision. Should the Judge issue a decision to garnish, the written notice of the decision must be accompanied by the Garnishment Order.

58.4-5. Garnishment Orders. Should the Judiciary issue a decision to garnish based on the Garnishment Hearing, the Garnishment Order must consider the following:

(a) Administrative Fee. An Administrative Fee must be included in each Garnishment Order to be deducted per pay period in addition to the amount of Garnishment entered based on the Petition for Wage Garnishment pursuant to the judgment. The Judiciary shall specify that the Administrative Fee will be assessed against the Respondent until the amount of the Garnishment Order is paid in full.

(1) The Accounting Department shall determine the amount of the Administrative Fee and post notice of such fee amount both with the Judiciary to

be posted in the Oneida Judiciary Center building and on the Tribe's website on the Register's page.

(c) Garnishment Action Fee. The Garnishment Action Fee must be included in all Garnishment Orders and must be passed along the Creditor, unless the Creditor is an Entity, department or program of the Tribe, in which case, once collected, the Garnishment Action Fee is payable to the Judiciary.

(b) Amount of the Garnishment. The Judge must begin with a presumption that a total of twenty (20) percent of a Respondent's disposable earnings per pay period may be subject to Garnishment(s) at any one time; the remainder of such Compensation will be identified as protected subsistence allowance. In calculating the amount of the Garnishment per pay period, the Judge may not include amounts garnished pursuant to child support orders within the maximum amount of up to twenty (20) percent of the Employee's disposable earnings per pay period.

(1) Should the Respondent desire a lesser amount than twenty (20) percent of the his or her disposable earnings per pay period to be deducted, he or she is responsible for presenting evidence at the Garnishment Hearing that requiring the full twenty (20) percent to be deducted each pay period would cause the him or her undue harm.

(i) Examples of situations where deducting the full twenty (20) percent of the Respondent's disposable earnings per pay period may cause the Respondent undue harm may include, but are not limited to, cases where:

(a) the Respondent is subject to child support orders that would leave the Respondent with less than fifty (50) percent of his or her Compensation per pay period; or

(b) the Respondent receives, is eligible for or, within six (6) months of the date the Petition for Wage Garnishment was filed with the Judiciary, received public assistance; or

(c) The Respondent's household income is below the current federal poverty level; or

(d) The Garnishment of twenty (20) percent of the Respondent's disposable earnings per pay period would cause the Respondent's household income to drop below the current federal poverty level.

(2) An Employee may request that more than the amount determined by the Judge to be deducted each pay period. Such requests must be made directly to the Judiciary.

(c) Post Judgment Interest. The Judge shall include in each Garnishment Order post judgment interest at an annual rate equal to one (1) percent plus the prime rate in effect on January 1<sup>st</sup> of the year in which the judgment is entered if the judgment is entered before June 30<sup>th</sup> of that year or in effect on July 1<sup>st</sup> of the year in which the judgment is entered if the judgment is entered after June 30<sup>th</sup> of that year, as reported by the federal reserve board in federal reserve statistical release H. 15, on the amount recovered from the date of the entry of the judgment until it is paid.

OR

(c) Post Judgment Interest. The judge shall include in each Garnishment Order post judgment interest at an annual rate which the Oneida Business Committee shall establish, by resolution. The said annual interest rate remains in effect until such time as it is amended by an Oneida Business Committee resolution.

58.4-6. Notice of Garnishment to Accounting Department. Should the Judiciary issue a decision to garnish, once the appeal period under Section 58.4-9 has passed, the Judiciary shall

provide the Accounting Department with notice of the Garnishment including the amount to be garnished, how long the garnishment will take place or the number of Garnishments, any related fees authorized under this Ordinance and a copy of the Garnishment Order. No Garnishment Orders may be forwarded to the Accounting Department to be implemented for which an appeal has been filed by an Employee within the appeal period provided under Section 58.4-9. 58.4-7. Garnishment Implementation. The Accounting Department shall begin garnishments within ten (10) business days of its receipt of notification of the Garnishment Order by the Judiciary. To implement the Garnishment Order, the Accounting Department shall:

- (a) Following each pay period, send the amount to be garnished from the Employee's paycheck pursuant to the Garnishment Order to the Creditor; and
- (b) Notify the Employee and Creditor when the Garnishment Order has been fulfilled.

58.4-8. Summary Process. Where the amount requested to be garnished is based upon a judgment of indebtedness of fifty (50) dollars or less, the Judiciary shall summarily process the Petition for Wage Garnishment, unless the Debtor formally requests a Garnishment Hearing.

58.4-9. Appeals. The parties have ten (10) business days from the date of the notice of the decision issued to file an appeal of the Judiciary's decision regarding the Petition for Wage Garnishment with the Judiciary.

58.4-10. Records. The Judiciary shall keep complete records of all Garnishment actions that are started and/or completed. The records must contain:

- (a) Correspondence and notices to all parties involved.
- (b) Bookkeeping records.
- (c) Garnishment evidence presented by all parties.
- (d) Decisions made by the Judge.

## **58.5. Recognition of Order.**

58.5-1. Orders for child support against any Employee must be recognized and enforced, provided that the order has been issued from a court of competent jurisdiction.

58.7-2. Authenticity of Order. The Judiciary must receive such child support orders and shall verify the authenticity of such orders. Upon verification of the child support order, the Judge shall forward such order to the Accounting Department for action.

58.7-3. Administrative Fee. An administrative fee of \$5.00 shall be assessed monthly so long as the child support deduction is in effect.

## **58.6. Discharge from Employment.**

58.6-1. The Tribe may not use a Petition for Wage Garnishment as the basis for the discharge of an Employee.

58.8-2. Jurisdiction. By filing a Petition for Wage Garnishment with the Judiciary, Creditors are submitting to the jurisdiction of the Tribe for the subject action.

*End.*

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Adopted - BC-6-2-92  
Adopted - BC-6-10-92  
Adopted - BC-4-2-97-G  
Amended - BC-06-25-14-B



# Legislative Operating Committee

## September 16, 2015

# Oneida Higher Education Scholarship

**Submission Date:** October 15, 2014

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *Higher Education proposed funding changes for Fall 2014-2015. The OBC requested a legislative analysis of the changes which were made to the Student Handbook. Following this action, the OBC directed the LOC to look at codifying the rules created by the Higher Education Office, which currently govern how Higher Ed disburses higher education funding in accordance with GTC directives.*

**08/23/14 OBC:** Motion by Vince Delarosa request the BC to direct the proposed Higher Education changes be put on hold until 1) A legal review and legislative analysis are completed and 2) A notice of the amendments and the effects of the amendments are provided to the GTC at an Annual or Semi-Annual meeting, seconded by Brandon Stevens. Motion carried unanimously.

Motion by David Jordan to direct Higher Education and Governmental Division to send out a notification in the next Kalihwisaks and to include all the students that are within their database who are applying for financial assistance in that notification, saying that the new proposed changes are being put on hold, seconded by Vince Delarosa. Motion carried unanimously.

**10/01/14 LOC:** Motion by Fawn Billie to approve the memo and forward to the Oneida Business Committee for acceptance; seconded by Jennifer Webster. Motion carried unanimously.

**10/08/14 OBC:** Motion by Lisa Summers to send this issue back to LOC for a draft law or policy to come back to the Business Committee when ready, seconded by Trish King. Motion carried unanimously.

**10/15/14 LOC:** Motion by Jennifer Webster to add Higher Education to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

*Note: Fawn Billie will be the sponsor.*

**12/17/14 LOC:** Motion by Jennifer Webster to accept the memorandum regarding the status of the Higher Education Law as FYI; seconded by Fawn Billie. Motion carried unanimously.

**5/20/15:** Work meeting held, attendees include: Pat Garvey, Candice Skenandore, Mitchell Metoxen, Fawn Billie, David P. Jordan, Leyne Orosco, Fawn Cottrell.

**7/17/15:** Work meeting held, attendees include: Fawn Billie, David Jordan, Tehassi Hill, Jennifer Webster, Cheryl Vandenberg, Paula Ripple, Don White, Mistylee Herzog, Mitchel Metoxen, Fawn Cottrell, Krystal John, Candice Skenandore.



**7/24/15:** Strategy meeting held, attendees include: David Jordan, Tehassi Hill, Jennifer Webster, Brandon Stevens, Krystal John, Candice Skenandore.

**Next Steps:**

- Review the legislative analysis and provide feedback; consider deferring to the LRO to prepare for a public meeting.



## Oneida Higher Education Scholarship

Draft # 1 to Draft # 9

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Oneida Higher Education Scholarship (Law)				
<b>Requester</b>	OBC Referral	<b>Drafter</b>	Krystal L. John	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	The Higher Education Office proposed funding changes. The OBC requested a legislative analysis and directed that the LOC look at codifying the rules created by the Department, which currently governs how the Department disburses higher education funding in accordance with GTC directives.				
<b>Purpose</b>	The purpose of this Law is to implement a scholarship program that is compliant with GTC directives and to specify the funding requirements and procedural controls <i>[See 305.1-1]</i> .				
<b>Authorized/ Affected Entities</b>	Higher Education Office, Governmental Services Division Director, any eligible Tribal member seeking a scholarship				
<b>Due Process</b>	A student can appeal a scholarship decision to the review panel, if dissatisfied with the review panel's decision; the student can appeal to the Division Director. The Division Director's decision is final <i>[See 305.9]</i> .				
<b>Related Legislation</b>	Higher Education Student Handbook, Higher Education Office's system of internal controls				
<b>Policy Mechanism</b>	Higher Education Scholarships				
<b>Enforcement</b>	The Higher Education Office can place a student who violates this Law or fails to comply with the Higher Education Student Handbook on probation or suspension <i>[See 305.8-1]</i> .				

**Overview**

This is a new Law that:

- Identifies the duties and responsibilities of the Higher Education Office which includes awarding scholarships pursuant to this Law, developing and maintaining rules and regulations to carry out this Law and developing and maintaining a system of internal controls for the Higher Education Office *[See 305.4-1]*.
- Lists the eligibility and requirements for an applicant seeking a scholarship *[See 305.5]*.
- Sets the length of funding, identifies the different tiered funding systems and explains how the scholarship amount is determined *[See 305.6]*.
- Allows the Higher Education Office to make exceptions to eligibility, requirements and length of funding on a case-by-case basis. The Law also notes that the Higher Education Student Handbook sets out the exception process *[See 305.7-2 & 305.7-3]*.
- Gives the Higher Education Office the authority to enforce this Law *[See 305.8-1]*.
- Allows a student appeal a scholarship decision only if he/she can show the Higher Education Office failed to abide by this Law and/or the Higher Education Student Handbook *[See 305.9-1]*.

**Considerations**

The LOC may want to consider the following:

- There are discrepancies with this Law and the Higher Education Student Handbook; however, the Higher Education Student Handbook is in the process of being updated.
- General Tribal Council (GTC) must be notified of any amendments related to scholarships either at the Annual or Semi-Annual meeting, whichever is sooner [*See GTC Resolution 7-24-02-A*].
- This Law requires an applicant to seek a scholarship for semesters/terms which have not already ended or been completed [*See 305.5-1 (d)*]. The LOC may want to consider adding language that does not allow an applicant to seek a scholarship for a semester/term that is currently in session and has not yet concluded.
- Although not defined, the term “student” typically refers to someone that is studying at a school or college. An applicant may be someone seeking admission into a school or college but is not yet a student. This Law only allows a student to appeal a scholarship decision made by the Higher Education Office [*See 305.7-3 (b) & 305.9-1*].
- In order to avoid future amendments to the Law, the LOC may want to consider using generic terms such as “Division Director” and “Area Manager” instead of “Division Director of Governmental Services” or “Education and Training Area Manager”. This would allow for the Higher Education Office or Governmental Services Division to reorganize without having to amend the Law. If it is decided to use generic terms, the LOC may consider defining those terms. For example, “Division Director” means the Governmental Services Division Director or his/her equivalent that is responsible for overseeing the Higher Education Office’s Area Manager.

#### Miscellaneous

A public meeting has not been held. Please refer to the fiscal impact statement for any financial impact.

### Chapter 305

#### Oneida Higher Education Scholarship

On<yote>a-k@- Thuwatilihuny<ni>tha>k%- Ohw\$ta>  
people of the Standing Stone, the great place where they teach them the traditions, money

305.1. Purpose and Policy

305.2. Adoption, Amendment, Repeal

305.3. Definitions

305.4. Higher Education Office

305.5. Eligibility and Requirements

305.6. Higher Education Scholarship

305.7. Exceptions

305.8. Enforcement

305.9. Appeals

#### 305.1. Purpose and Policy

305.1-1. *Purpose*. The purpose of this ~~law~~Law is:

- (a) To implement a scholarship program that is compliant with ~~General Tribal Council resolution~~the following resolutions GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, BC-01-26-05-A and GTC-01-30-10-A.

- (b) To specify the funding requirements and procedural controls for awarding Scholarships.

305.1-2. *Policy*. It is the policy of this ~~law~~Law to have a consistent methodology for awarding Higher Education Scholarships so that the ~~Oneida Higher Education Office~~Tribe is able to provide educational opportunities to ~~student applicants~~Tribal Members and award Scholarships in ~~an equitable fashion while simultaneously protecting~~a consistent and ~~preventing the misuse and/or abuse of Tribal resources~~fiscally responsible manner.

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### 305.2. Adoption, Amendment, Repeal

305.2-1. This Law was adopted by the Oneida Business Committee by resolution \_\_\_\_\_.

305.2-2. This Law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

305.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall~~does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

305.2-4. In the event of a conflict between a provision of this Law and a provision of another Tribal law, the provisions of this Law ~~shall~~ control.

305.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### 305.3. Definitions

305.3-1. This section ~~shall govern~~governs the definitions of words and phrases used within this Law. All words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

(a) “Accredited vocational program, college or university” means any United States educational institution eligible for federal financial aid or any Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.

~~(b) “Tribal Member” means a descendant of the Oneida Tribe of Indians of Wisconsin identifiable by an official enrollment number.~~

(b) “Appeal” means a request for review of a Scholarship decision made by the Higher Education Office or Higher Education Office Review Panel for which the requestor must demonstrate that the Higher Education Office has failed to abide by the provisions of this Law and/or the approved Higher Education Student Handbook.

(c) “Exception” means a request that the Higher Education Office make a discretionary decision to exempt an applicant from a requirement(s) for which there is an available exemption under Section 305.7-2.

~~(e)(d)~~ “Financial Needs Analysis” ~~(FNA)~~ is a form which reports a school’s cost of attendance and eligible Financial Aid awards, which is sent by the ~~Oneida~~ Higher Education Office directly to the school’s financial aid office for completion.

~~(d)(e)~~ “Free Application for Federal Student Aid” ~~(FAFSA)~~ is an application which determines eligibility for any financial resources such as state and federal funding.

~~(e)(f)~~ “Grade Point Average (GPA)” “GPA” means grade point average which is a measure of a student’s academic achievement arrived at by dividing the total grade points received by the total grade points attempted.

(g) “Higher Education Office Review Panel” is a three (3) party review panel, which is to include the student’s Higher Education Advisor, the Higher Education Manager and the Education and Training Area Manager.

~~(f)(h)~~ “Higher Education Student Handbook” is the source of the rules and regulations for carrying out this Law as further described in Section 305.4-1(b).



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~~(g)~~(i) “Progress Report” means an official transcript of grades.

~~(h)~~(i) “Scholarship” means monetary funds awarded to a student through the Oneida Higher Education program.

(k) “Tribal Member” means an enrolled member of the Oneida Tribe of Indians of Wisconsin.

#### 305.4. Higher Education Office

305.4-1. The Higher Education Office shall carry out the intent and purposes of this Law and enforce the provisions of this Law. The Higher Education Office shall:

(a) Award scholarships in accordance with this Law.

(b) Develop and maintain rules and regulations designed to carry out this Law and shall make such rules and regulations available in the Higher Education Student Handbook.

(1) At a minimum, the rules and regulations relating to the eligibility requirements, funding caps in accordance with ~~General Tribal Council~~ resolution GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, BC-01-26-05-A and GTC-01-30-10-A and the enforcement and appeals provisions must comply with the provisions of this Law.

(2) The Higher Education Student Handbook and any revisions thereto must be approved by the Oneida Business Committee.

(c) Develop and maintain a system of internal controls for the Higher Education Office.

#### 305.5. Eligibility and Requirements

305.5-1. *Eligibility.* In order to be eligible for a Scholarship award, applicants must:

(a) Be a Tribal Member.

(b) Be in Good Standing where good standing means the student has:

(1) met the Oneida GPA requirements as determined set forth in the Higher Education Student Handbook and;

(2) completed the total number of credits within the semester/term for which the Scholarship was provided based on a Progress Report; and has

(3) met the standards of the Financial Aid Academic good standing.

~~(b)~~(c) Be accepted to an Accredited vocational program, college or university.

~~(e)~~(d) Not ~~be~~Be seeking the Scholarship for semesters/terms which have not already ended or been completed.

~~(d)~~(e) Not ~~be~~Be seeking the Scholarship for continuous degrees at any level, unless a degree that is categorized in a higher funding tier than the continuous degrees sought at funding tier of a degree previously earned, based on the funding tiers provided under Section 305.6-2. A student seeking a degree that is in the same level are funding tier or lower as another degree being pursued concurrently and within the allowable length of funding pursuant to Section 305.6-1 funding period allotted for the degree at the higher funding tier, may not be considered ineligible based on this Section.

305.5-2. *Requirements.* In order for a Scholarship to be awarded:

(a) Applicants must file the Free Application for Federal Student Aid ~~(FAFSA)~~, unless

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the applicant will be taking less than six (6) credits or will be attending ~~an~~ Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based ~~program in~~ Canadaprograms.

(b) It is the applicant's responsibility to submit a complete student file to the Oneida Higher Education Office based on the requirements of the Higher Education Student Handbook.

### 305.6. Higher Education Scholarship

305.6-1. *Length of Funding*. ~~The~~ Pursuant to the Higher Education Student Handbook, which must provide comprehensive definitions of the achievements eligible for funding and the methodology for calculating funding periods, the following ~~provides~~ are the maximum Scholarship funding periods, ~~which are based on the achievement sought, pursuant to the Higher Education Student Handbook,~~ for eligible applicants:

(a) Two and one-half (2.5 1/2) years for a Vocational Program Completion/Associate Degree/Certificate Program Completion/similar program.

~~(1) Vocational Program Completion is successful fulfillment of a course of work from a vocation or trade school, which is a higher-level learning institution providing students with skills based on job specific training.~~

~~(2) An Associate Degree is an undergraduate academic degree which may be awarded by community colleges, junior colleges, technical colleges, bachelor's degree-granting colleges and universities upon completion of a course of study.~~

~~(3) Certificate Program Completion is successful fulfillment of a course of work focusing on specialized skills, professional development, and advanced training.~~

(b) Five (5) years for an Undergraduate ~~(Bachelor's)~~ Degree.

~~(1) An Undergraduate (Bachelor's) Degree is an academic degree for completing an undergraduate course of study.~~

~~(c) Three (3)~~ years for a Graduate ~~(Master's)~~ Degree.

(1) A Graduate (Master's) Degree is an advanced academic degree ~~which requires that students have previously earned an undergraduate degree~~

(d) Five (5) years for a Doctoral ~~(Doctorate)~~ Degree.

~~(1) A Doctoral (Doctorate) Degree is the most advanced academic or professional degree which requires that students have previously earned an undergraduate degree and qualifies the holder to teach at the university level in the degree's field, or to work in a specific profession, such as medicine or law for example.~~

305.6-2. *Tiered Funding System*. ~~Consists of~~ The General Tribal Council, or its delegate, shall establish maximum funding caps for the following ~~three levels~~ funding tiers:

(a) Vocational Program, Associate Degree, Certificate Program or ~~undergraduate~~ similar program.

(b) Masters Undergraduate Degree.

(c) Doctorate Graduate Degree.

(d) Doctoral Degree.

305.6-3. *Award*. The amount of the Scholarship award is based upon:

(a) ~~The~~ amount of funding caps for each tier ~~contained in section~~ under Section 305.6-2,

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which ~~are~~must be contained in the Higher Education Student Handbook.–

(1) ~~Amendments to these funding caps require General Tribal Council approval, but do not require this Law to be amended.~~

(b) The Financial Needs Analysis.

### 305.7. Exceptions

305.7-1. *Exception Policy.* Exceptions may be offered under narrow grounds only for applicants facing extenuating circumstances whom are able to demonstrate that based on the totality of the circumstances the applicant will likely succeed in achieving the accomplishment sought either within the ~~exception~~Exception period and/or despite the extenuating circumstances that have made pursuing an ~~exception~~Exception necessary.

(a) Within six (6) months of the adoption this Law, the Higher Education Office shall develop a standard operating procedure for evaluating requests for ~~exceptions~~Exceptions; no ~~exceptions~~Exceptions may be granted pursuant to this Law until the said standard operating procedure has been developed.

305.7-2. *Available Exceptions.* In its discretion, the ~~Oneida~~ Higher Education ~~office~~Office may make ~~exceptions~~Exceptions to eligibility, requirements and length of funding on case-by-case ~~bases~~basis as provided below:

(a) In regards to eligibility, exceptions may be made relating to the requirements contained in subsections 305.5-1(b)~~(c)~~, (c) and (e).

(b) In regards to requirements, exceptions may be made relating to the requirement contained in subsection 305.5-~~32~~(a).

(c) Exceptions may also be made relating to the length of funding periods contained in section 305.6-1.

~~(e)~~ Exceptions may not be made for requirements contained in this Law that are not explicitly noted in this section.

305.7-2. ~~305.7-3.~~ *Exception Process.* Applicants requesting an ~~exception~~Exception shall follow the process ~~required by~~set forth in the Higher Education Student Handbook.

~~(a) 305.7-3. Granting an Exception. The Higher Education Review Panel shall consider requests for available Exceptions under Section 305.7-2 based on the Exception Policy identified under Section 305.7-1. A decision by the Higher Education Office to grant~~Review Panel regarding an exception must be approved by a majority of ~~a three (3) party review panel, which is to include the student's Higher Education Advisor,~~the said Panel.

~~(b) Requesting Reconsideration of an Exception Decision. If a student disagrees with the Higher Education Manager and the Education and Training Area Manager. Office~~Review Panel's denial of an available Exception under Section 305.7-2, the student may file a request for reconsideration of the Exception with the Division Director of Governmental Services; the decision of the Division Director of Governmental Services regarding the Exception is final.

### 305.8. Enforcement

305.8-1. *Accountability.* The Higher Education Office ~~shall~~may place ~~students on probation~~any student who violates this Law or ~~suspension as required by~~fails to comply with the Higher

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Education Student Handbook ~~and on probation or suspension~~ in accordance with the ~~Oneida~~ Higher Education ~~Office's~~ system of internal controls.

### 305.9. Appeals

~~305.9-1. Appeal Process and Requirements. A student who has been denied funding from the Oneida Higher Education may Appeal a~~ Scholarship program may file an appeal with the Oneida ~~decision made by the~~ Higher Education Office ~~in accordance with, but only to extent that the student is able to demonstrate that~~ the Higher Education Student Handbook. ~~Aside from appeals based the Oneida Higher Education Office's denial to grant an exception, in order to be considered, an appeal must allege that the Oneida Higher Education Office~~ ~~Office~~ has failed to abide by the provisions of this Law ~~and/or~~ the approved ~~Oneida~~ Higher Education Student Handbook.

~~305.9-2. Levels of Review. Must be sequentially directed through the~~ The following two (2) levels of review:

~~(a) Oneida Higher Education Office three (3) party review panel, which is to include the student's Higher Education Advisor, the Higher Education Manager and the Education and Training Area Manager.~~

~~(b) The Division Director of Governmental Services.~~

~~305.9-3. Appeal of Exceptions. An appeal based the Oneida Higher Education Office's denial to grant an exception from the list of~~ are available exceptions pursuant to section 305.7-1 is not subject to the first level of appeal contain in section 305.9-2 ~~(to a)~~ and rather skips directly to be heard by student seeking an Appeal of a Scholarship decision made by the Higher Education Office:

(a) The first level of review is through the Higher Education Office Review Panel. A decision by the Higher Education Office Review Panel regarding an Appeal must be approved by a majority of the said Panel.

(b) If a student disagrees with the Higher Education Office Review Panel's decision regarding an Appeal, the student may Appeal at the second level of review to the Division Director of Governmental Services; the decision of the Division Director of Governmental Services ~~for~~ issuance of a final determination according to section 305.9-2(b).

~~(a) Applicants appealing a denial to grant an exception from~~ regarding the list of available exceptions pursuant to section 305.7-1 shall adhere to all other appeals processes proscribed in this section.

~~305.9-4. Final Review. The decision of the Division Director of Governmental Services~~ Appeal is final; ~~no further appeals may be heard.~~

End.

~~Pursuant to resolutions: GTC Resolutions: 8-08-12-96-A; 9-09-12-96-C, BC-05-09-01-B, BC-10-24-01-K; 05-09-01-B; 7-BC-07-24-02-AA; A, BC-01-26-05-A and 4GTC-01-30-10-A.~~

Adopted ~~by BC~~



## Chapter 305

### Oneida Higher Education Scholarship

Onayote'a·ká· Thuwatilihunyani'tha'kó· Ohwísta'

people of the Standing Stone, the great place where they teach them the traditions, money

305.1. Purpose and Policy

305.2. Adoption, Amendment, Repeal

305.3. Definitions

305.4. Higher Education Office

305.5. Eligibility and Requirements

305.6. Higher Education Scholarship

305.7. Exceptions

305.8. Enforcement

305.9. Appeals

#### 305.1. Purpose and Policy

305.1-1. *Purpose.* The purpose of this Law is:

(a) To implement a scholarship program that is compliant with the following resolutions GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, BC-01-26-05-A and GTC-01-30-10-A.

(b) To specify the funding requirements and procedural controls for awarding Scholarships.

305.1-2. *Policy.* It is the policy of this Law to have a consistent methodology for awarding Higher Education Scholarships so that the Tribe is able to provide educational opportunities to Tribal Members and award Scholarships in a consistent and fiscally responsible manner.

#### 305.2. Adoption, Amendment, Repeal

305.2-1. This Law was adopted by the Oneida Business Committee by resolution \_\_\_\_\_.

305.2-2. This Law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

305.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

305.2-4. In the event of a conflict between a provision of this Law and a provision of another Tribal law, the provisions of this Law control.

305.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

#### 305.3. Definitions

305.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) "Accredited vocational program, college or university" means any United States educational institution eligible for federal financial aid or any Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.

(b) "Appeal" means a request for review of a Scholarship decision made by the Higher Education Office or Higher Education Office Review Panel for which the requestor must demonstrate that the Higher Education Office has failed to abide by the provisions of this Law and/or the approved Higher Education Student Handbook.

(c) "Exception" means a request that the Higher Education Office make a discretionary decision to exempt an applicant from a requirement(s) for which there is an available exemption under Section 305.7-2.

(d) "Financial Needs Analysis" is a form which reports a school's cost of attendance and

eligible Financial Aid awards, which is sent by the Higher Education Office directly to the school's financial aid office for completion.

(e) "Free Application for Federal Student Aid" is an application which determines eligibility for any financial resources such as state and federal funding.

(f) "GPA" means grade point average which is a measure of a student's academic achievement arrived at by dividing the total grade points received by the total grade points attempted.

(g) "Higher Education Office Review Panel" is a three (3) party review panel, which is to include the student's Higher Education Advisor, the Higher Education Manager and the Education and Training Area Manager.

(h) "Higher Education Student Handbook" is the source of the rules and regulations for carrying out this Law as further described in Section 305.4-1(b).

(i) "Progress Report" means an official transcript of grades.

(j) "Scholarship" means monetary funds awarded to a student through the Oneida Higher Education program.

(k) "Tribal Member" means an enrolled member of the Oneida Tribe of Indians of Wisconsin.

#### **305.4. Higher Education Office**

305.4-1. The Higher Education Office shall carry out the intent and purposes of this Law and enforce the provisions of this Law. The Higher Education Office shall:

(a) Award scholarships in accordance with this Law.

(b) Develop and maintain rules and regulations designed to carry out this Law and shall make such rules and regulations available in the Higher Education Student Handbook.

(1) At a minimum, the rules and regulations relating to the eligibility requirements, funding caps in accordance with resolution GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, BC-01-26-05-A and GTC-01-30-10-A and the enforcement and appeals provisions must comply with the provisions of this Law.

(2) The Higher Education Student Handbook and any revisions thereto must be approved by the Oneida Business Committee.

(c) Develop and maintain a system of internal controls for the Higher Education Office.

#### **305.5. Eligibility and Requirements**

305.5-1. *Eligibility.* In order to be eligible for a Scholarship award, applicants must:

(a) Be a Tribal Member.

(b) Be in Good Standing where good standing means the student has:

(1) met the Oneida GPA requirements set forth in the Higher Education Student Handbook;

(2) completed the total number of credits within the semester/term for which the Scholarship was provided based on a Progress Report; and

(3) met the standards of the Financial Aid Academic good standing.

(c) Be accepted to an Accredited vocational program, college or university.

(d) Be seeking the Scholarship for semesters/terms which have not already ended or been completed.

(e) Be seeking the Scholarship for a degree that is categorized in a higher funding tier than the funding tier of a degree previously earned, based on the funding tiers provided under Section 305.6-2. A student seeking a degree that is in the same funding tier or

lower as another degree being pursued concurrently and within the funding period allotted for the degree at the higher funding tier, may not be considered ineligible based on this Section.

305.5-2. *Requirements.* In order for a Scholarship to be awarded:

(a) Applicants must file the Free Application for Federal Student Aid, unless the applicant will be taking less than six (6) credits or will be attending a Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.

(b) It is the applicant's responsibility to submit a complete student file to the Higher Education Office based on the requirements of the Higher Education Student Handbook.

### **305.6. Higher Education Scholarship**

305.6-1. *Length of Funding.* Pursuant to the Higher Education Student Handbook, which must provide comprehensive definitions of the achievements eligible for funding and the methodology for calculating funding periods, the following are the maximum Scholarship funding periods for eligible applicants:

(a) Two and one-half (2 1/2) years for a Vocational Program Completion/Associate Degree/Certificate Program Completion/similar program.

(b) Five (5) years for an Undergraduate Degree.

(c) Three (3) years for a Graduate Degree.

(d) Five (5) years for a Doctoral Degree.

305.6-2. *Tiered Funding System.* The General Tribal Council, or its delegate, shall establish maximum funding caps for the following funding tiers:

(a) Vocational Program, Associate Degree, Certificate Program or similar program.

(b) Undergraduate Degree.

(c) Graduate Degree.

(d) Doctoral Degree.

305.6-3. *Award.* The amount of the Scholarship award is based upon:

(a) The amount of funding caps for each tier under Section 305.6-2, which must be contained in the Higher Education Student Handbook.

(b) The Financial Needs Analysis.

### **305.7. Exceptions**

305.7-1. *Exception Policy.* Exceptions may be offered under narrow grounds only for applicants facing extenuating circumstances whom are able to demonstrate that based on the totality of the circumstances the applicant will likely succeed in achieving the accomplishment sought either within the Exception period and/or despite the extenuating circumstances that have made pursuing an Exception necessary.

(a) Within six (6) months of the adoption this Law, the Higher Education Office shall develop a standard operating procedure for evaluating requests for Exceptions; no Exceptions may be granted pursuant to this Law until the said standard operating procedure has been developed.

305.7-2. *Available Exceptions.* In its discretion, the Higher Education Office may make Exceptions to eligibility, requirements and length of funding on case-by-case basis as provided below:

(a) In regards to eligibility, exceptions may be made relating to the requirements contained in subsections 305.5-1(b), (c) and (e).

(b) In regards to requirements, exceptions may be made relating to the requirement contained in subsection 305.5-2(a).

(c) Exceptions may also be made relating to the length of funding periods contained in section 305.6-1.

(d) Exceptions may not be made for requirements contained in this Law that are not explicitly noted in this section.

305.7-3. *Exception Process.* Applicants requesting an Exception shall follow the process set forth in the Higher Education Student Handbook.

(a) *Granting an Exception.* The Higher Education Review Panel shall consider requests for available Exceptions under Section 305.7-2 based on the Exception Policy identified under Section 305.7-1. A decision by the Higher Education Office Review Panel regarding an Exception must be approved by a majority of the said Panel.

(b) *Requesting Reconsideration of an Exception Decision.* If a student disagrees with the Higher Education Office Review Panel's denial of an available Exception under Section 305.7-2, the student may file a request for reconsideration of the Exception with the Division Director of Governmental Services; the decision of the Division Director of Governmental Services regarding the Exception is final.

### 305.8. Enforcement

305.8-1. *Accountability.* The Higher Education Office may place any student who violates this Law or fails to comply with the Higher Education Student Handbook on probation or suspension in accordance with the Higher Education Office's system of internal controls.

### 305.9. Appeals

305.9-1. *Appeal Process and Requirements.* A student may Appeal a Scholarship decision made by the Higher Education Office, but only to extent that the student is able to demonstrate that the Higher Education Office has failed to abide by the provisions of this Law and/or the approved Higher Education Student Handbook.

305.9-2. *Levels of Review.* The following levels of review are available to a student seeking an Appeal of a Scholarship decision made by the Higher Education Office:

(a) The first level of review is through the Higher Education Office Review Panel. A decision by the Higher Education Office Review Panel regarding an Appeal must be approved by a majority of the said Panel.

(b) If a student disagrees with the Higher Education Office Review Panel's decision regarding an Appeal, the student may Appeal at the second level of review to the Division Director of Governmental Services; the decision of the Division Director of Governmental Services regarding the Appeal is final.

*End.*

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Pursuant to resolutions: GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, BC-01-26-05-A and GTC-01-30-10-A.





# Legislative Operating Committee

## September 16, 2015

### Per Capita Law Amendments

**Submission Date:** 7/10/2015

☐ Public Meeting:  
☐ Emergency Enacted:  
Expires:

**LOC Sponsor:** David P. Jordan

**Summary:** *This request from the Trust Department was submitted to clarify several provisions of the law, modify the frequency of form requirements and in elder distributions, and incorporate fees for stop payments and closed bank accounts.*

**7/15/15 LOC:** Motion by Jennifer Webster to add the Per Capita Law Amendments to the active files list with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

- **Next Steps:** Accept the 60 day update as FYI and defer to the LRO to continue working on the Amendments with the Trust Department.

# Oneida Tribe of Indians

**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  
 David P. Jordan, Councilmember  
 Jennifer Webster, Councilmember

**Memorandum**

**To:** Legislative Operating Committee  
**From:** David P. Jordan, Councilmember  
**Date:** September 16, 2015  
**Re:** Per Capita Law Amendments

On July 10, 2015, a request to amend the Per Capita Law was submitted to the Legislative Operating Committee (LOC) on behalf of the Trust Department. On July 15, 2015, the LOC added the Per Capita Law Amendments to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Trust Department requested revisions that would clarify several provisions of the Law, modify the frequency of form requirements in elderly distributions, and incorporate fees for stop payments and closed bank accounts.

Since the request was submitted the Legislative Reference Office (LRO) has discussed the requested revisions with Bonnie Pigman in the Trust Department. On August 31, 2015, Bonnie Pigman indicated that the Trust Department was in the process of internally revising their requested revisions and noted that she would notify to the LRO when the Trust Department has reached an internal agreement as to what the final requested revisions should entail. The LRO received the revised request from the Trust Department on September 10, 2015 and will begin drafting the amendments based on revised request.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

**Requested Action**

Motion to accept the memorandum regarding the status of the Per Capita Law Amendments as FYI.



# Legislative Operating Committee

## September 16, 2015

# Public Use of Tribal Lands Amendments

**Submission Date:** 7/1/2015

☐ Public Meeting:  
☐ Emergency Enacted: 7/8/15  
 Expires: 1/5/15

**LOC Sponsor:** David P. Jordan

**Summary:** *In order to preserve the lands for the use and enjoyment of all authorized individuals, the Environmental Resource Board (ERB) has identified the need to revise the Public Use of Tribal Land Law (Law) to allow ERB to prescribe permissible and prohibited uses for tribal lands that it designates as Oneida Community Access, Oneida Tribal Member Access or Open Access to allow for the enforcement of prescriptions on such lands.*

**7/01/15 LOC:** Motion by David P. Jordan to add the Public Use of Tribal Land Amendments to the active files list; seconded by Tehassi Hill. Motion carried unanimously.

Note: David P. Jordan will be the sponsor.

Motion by Tehassi Hill to approve the resolution and forward the Public Use of Tribal Land Emergency Amendments to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

**7/8/15 OBC:** Motion by Brandon Stevens to adopt resolution 07-08-15-C Public Use of Tribal Land Law Emergency Amendments, seconded by Lisa Summers. Motion carried unanimously.

- **Next Steps:** Accept the updated legislative analysis; direct a fiscal impact statement be prepared; and considering forwarding the amendments for a public meeting to be held October 15, 2015 in order to begin the process to adopt the permanent amendments pursuant to the LPA.



*Notice of*

# Public Meeting

*to be held*

**October 15, 2015 at 12:15 p.m.**

**OBC Conference Room—2nd Floor, Norbert Hill Center**



## ***Topic: Public Use of Tribal Land Law Amendments***

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would:

- ♦ Allow the Environmental Resource Board (ERB) to prescribe permissible and/or prohibited uses for tribal land that has been designated as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that such uses do not contradict with the Zoning and Shoreland Protection Ordinance; and
- ♦ Require ERB to report the prescribed permissible and/or prohibited uses to the Oneida Business Committee and to post the uses on the affected tribal lands.

**All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.**

**Public Comment Period—Open until October 22, 2015**

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit [www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact the Legislative Reference Office, which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**  
**PO Box 365**  
**Oneida, WI 54155**

Phone: **(920) 869-4376 or (800) 236-2214**  
 E-Mail: **LOC@oneidanation.org**  
 Fax: **(920) 869-4040**



## CHAPTER 38 PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy  
38.2. Adoption, Amendment, Repeal  
38.3. Definitions  
38.4. Environmental Resource Board

38.5. Land Access Map  
38.6. Trespass  
38.7. Violations and Appeals

Analysis by the Legislative Reference Office					
<b>Title</b>	Public Use of Tribal Land				
<b>Requester</b>	ERB	<b>Drafter</b>	Krystal John	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	Give the Environmental Resource Board the authority to determine what actions are allowed or not allowed on designated Tribal properties.				
<b>Purpose</b>	The purpose of this Law is to prevent improper access, use and trespass to Tribal lands				
<b>Authorized/ Affected Entities</b>	Environmental Resource Board or its designated staff, Conservation Warden, Oneida Police Department, Oneida Environmental Health and Safety Division, the Oneida Division of Land Management, Geographic Land Information Systems and anyone accessing Tribal land.				
<b>Due Process</b>	A person receiving a citation can appeal to ERB; if the person is dissatisfied with ERB's decision, he/she can appeal to the Tribe's judicial system [See 38.7-2 & 38.7-3].				
<b>Related Legislation</b>	Zoning and Shoreland Protection Ordinance				
<b>Policy Mechanism</b>	A person that violates this Law may be issued a citation [See 38.7-1].				
<b>Enforcement</b>	ERB has the duty and power to carry out this Law and enforce the provisions of this Law [See 38.4-1].				

### Overview

According to the Environmental Health and Safety Division and the Environmental Resource Board, people have been camping and/or consuming alcohol at the Oneida Lake. It is because of these actions that the Environmental Resource Board (ERB) requested emergency amendments to the Public Use of Tribal Land Law (Law). The Oneida Business Committee adopted the emergency amendments on July 8, 2015. These amendments are now being considered as permanent amendments. The amendments include the following:

- ERB or its designated staff has the authority to prescribe permissible and/or prohibited uses, as deemed necessary, for property designated as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that the permissible and/or prohibited uses do not contradict with the Zoning and Shoreland Protection Ordinance [See 38.4-1 (g)].
- ERB must also notify the Oneida Business Committee of the permissible and/or prohibited uses and must post notice of such uses on the affected Tribal land [See 38.4-1 (g)].

### Considerations

- These amendments do not allow the ERB or its designated staff to prescribe permissible and/or prohibited uses, as it deems necessary on Tribal property that is designated as Limited Access; however, the permit or lease may limit what uses are allowed on the Limited Access Land. Limited Access lands are open to anyone who is granted permission by the Tribe through a permit or lease for specific purposes [See 38.5-1 (a)].
- Although the Law requires ERB to notify Oneida Business Committee and to post notice of permissible and/or prohibited uses on the affected Tribal land, the LOC may want to consider requiring ERB to notice to the public of any permissible and/or prohibited uses or changes to those uses in the Tribal newspaper and/or on the Tribal website.

### Miscellaneous

A public meeting has not been held. Additional minor language changes have been made to the Law which do not affect the content.

### 38.1. Purpose and Policy

38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and ~~trespass~~Trespass to ~~Tribal land~~Tribal Lands.

38.1-2. *Policy.* It is the policy of the Tribe to limit access to ~~Tribal land~~Tribal Land to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

### 38.2. Adoption, Amendment, Repeal

38.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-15-14-C and amended by BC-12-10-14-A.

38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

38.2-3. Should a provision of this Law or the application thereof to any ~~person~~Person or circumstances be held as invalid, such invalidity ~~shall~~does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

38.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law ~~shall~~controls.

38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

38.2-6. This Law ~~shall~~may not be construed to preclude the Tribe from pursuing relief for criminal ~~trespass~~Trespass under applicable law.

### 38.3. Definitions

38.3-1. This section ~~shall~~governs the definitions of words and phrases used within this Law. All words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

(a) “Designation” means the term used to describe the type of access granted to certain ~~Tribal land~~Tribal Lands.

(b) “Lease” means any lease or agreement, including business site leases, entered into by the Tribe and any ~~person~~Person to allow the use of ~~Tribal land~~Tribal Lands.

(c) “~~Person~~Person” means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(d) “Reservation” means all the lands and waters 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.

(e) “Trespass” means the unauthorized use or entry on ~~Tribal land~~Tribal Lands, including unauthorized uses under a Tribal law, permit or ~~lease~~Lease.

(f) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

(g) “Tribal ~~land~~Land” means all Tribal trust lands, and any land or interest in land held by the Oneida Tribe in fee or in any other form on the Reservation.

### 38.4. Environmental Resource Board

38.4-1. The Environmental Resource Board ~~shall have~~has the duty and power to carry out the intent and purposes of this Law and enforce the provisions of this Law. The Environmental Resource Board, or its designated staff, shall:

(a) Develop, approve and maintain the Land Access Map.

- (b) Hold public hearings on proposed amendments to the Land Access Map.
- (c) Hear and decide, as the original hearing body, contested cases that may arise under this Law.
- (d) Impose hearing costs and restitution against the ~~person~~Person for damages caused by a violation of this Law.
- (e) Determine which ~~Tribal land~~Tribal Land will be posted and ensure the appropriate signs are posted.
- (f) Implement and interpret the provisions of this Law.
- (g) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal Land that it designates as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that such permissible and/or prohibited uses may not contradict with the Zoning and Shoreland Protection Ordinance. Upon establishment of permissible and/or prohibited uses, the Environmental Resource Board shall notify the Oneida Business Committee of the permissible and/or prohibited uses and shall post notice of such uses on the affected Tribal Land.

### 38.5. Land Access Map

38.5-1. *Designation of Tribal Lands.* A Land Access Map ~~shall~~must be created which designates ~~Tribal land~~Tribal Land as one (1) of the following:

(a) Limited Access: Lands designated as “Limited Access” ~~shall~~beare open to all ~~person~~Persons who are granted land access permission by the Tribe through a permit or ~~lease~~Lease for specified purposes. The Environmental Resource Board may choose to designate a portion of land as Limited Access in order to manage, preserve and protect that land for environmental, cultural or other significance.

(b) Oneida Community Access: Lands designated as “Oneida Community Access” ~~shall~~beare open to Tribal members, and their spouses and descendants; members of other federally recognized Indian tribes, bands or communities; authorized employees of the Tribe; and ~~person~~Persons who are accompanied at all times by a Tribal member, the spouse or descendant of a Tribal member, or an authorized employee of the Tribe.

(1) A Conservation Warden or Oneida Police Officer may require a ~~person~~Person to demonstrate proof of eligibility to use Oneida Community Access lands.

(2) The Environmental Resource Board may choose to designate land as Oneida Community Access in order to manage, preserve and protect access to locations that have cultural or environmental significance.

(c) Oneida Tribal Member Access: Lands designated as “Oneida Tribal Member Access” ~~shall~~beare open to Tribal members only. The Environmental Resource Board may designate land as Oneida Tribal Member Access to protect the land for Tribal member use due to the historical, spiritual, cultural and/or environmental significance of the land.

(d) Open: Lands designated as “Open Access” ~~shall~~beare generally open to all ~~person~~Persons for the land’s designated use and enjoyment. The Environmental Resource Board may designate land as Open Access where such ~~designation~~Designation is deemed beneficial to the Tribe and where such ~~designation~~Designation does not pose significant risk of damage to the policies of the Tribe and/or the land’s cultural or environmental preservation.

38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law ~~shall~~may be construed as preventing the following ~~person~~Persons from entering ~~Tribal land~~Tribal Land, regardless of the land ~~designation~~Designation:

- (a) Employees of the Tribe who are performing their job duties;

(b) Those ~~person~~Persons who are performing grant or contractual obligations related to the ~~Tribal land~~Tribal Land and on behalf of the Tribe;

(c) Emergency personnel who are providing, or attempting to provide, services; and

(d) Those ~~person~~Persons who have been granted access to the land by the Environmental Resource Board.

38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall develop the Land Access Map in coordination with the Oneida Environmental Health and Safety Division, the Oneida Division of Land Management, Geographic Land Information Systems and other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the initial Land Access Map.

38.5-4. *General Land Designation.* Unless otherwise designated, ~~Tribal Land~~Tribal Land ~~shall~~be designated as Limited Access.

38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to time, in the manner hereafter set forth, amend the Land Access Map, provided that due consideration ~~shall~~must be made for the intent and purposes of the ~~designation~~Designation.

(a) Amendments may be proposed by any ~~person~~Person by filing an application with the Environmental Resource Board in such format and accompanied by such information as required by the Board.

(b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on each application to amend the Land Access Map.

(1) The Environmental Resource Board shall set a date for the public hearing and meet the notice requirements of the public hearing as soon as possible after the filing of the application is complete.

(A) *Notice.* Not less than ten (10) business days and not more than thirty (30) business days prior to the public hearing, notice, including the time, place and purpose of the public hearing, ~~shall~~must be:

(i) published in the Tribal newspaper; and

(ii) mailed to all owners of land located within twelve hundred (1,200) feet of the outer boundaries of the land that is the subject of the public hearing.

(B) Any ~~person~~Person who cannot attend the public hearing may be represented by an agent, advocate or attorney at the public hearing.

(C) The Environmental Resource Board shall issue a decision or recommendation regarding amendments to the Land Access Map within seven (7) business days after the public hearing is held.

(2) The Environmental Resource Board together with the Environmental Health and Safety Division shall, after holding a public hearing and reviewing any comments received, make written findings of fact and determine whether to amend the Land Access Map.

(3) The Environmental Resource Board shall make findings based upon the evidence presented to it with respect to the following matters:

(A) Existing uses of the land and buildings within the general area of the land in question.

(B) Suitability of the land in question to the uses permitted under the existing Land Access Map.

(4) The Environmental Resource Board ~~shall~~may not amend the Land Access Map unless it finds that adopting such amendment is in the Tribe's best interest and is not solely for the interest of the applicant.



(c) The Environmental Resource Board may grant or deny any application to amend the Land Access Map; however, amendments ~~shall~~must require a two-thirds (2/3) vote of the Environmental Resource Board if a written protest against any amendment is presented to the Environmental Resource Board and is signed by:

(1) the lessees, assignees and owners of at least twenty percent (20%) of the acres of land included in such amendment; or

(2) the lessees, assignees and owners of at least twenty percent (20%) of the land immediately adjacent to the land included in such amendment, extending in a radius of twelve hundred (1,200) feet of the outer boundaries of the land.

### 38.6. Trespass

38.6-1. A ~~person~~Person ~~trespass~~Trespases if the ~~person~~Person enters or otherwise occupies ~~Tribal land~~Tribal Land and:

(a) Refuses to leave land to which the ~~person~~Person has no reasonable claim or right of possession when requested to do so.

(b) Enters upon such land after being noticed by the landowner or occupant that permission for the ~~person~~Person to enter such land does not exist, or has been expressly denied or revoked. A ~~person~~Person has been noticed that permission by the landowner or occupant for such ~~person~~Person to enter such land does not exist if he or she has been notified publicly, by publication of the Land Access Map on the Tribal website and/or in the Tribal newspaper, or if the land is posted. Land is considered to be posted if one (1) of the following requirements is met:

(1) A sign at least eleven (11) inches square is placed in at least two (2) conspicuous places for every forty (40) acres of land to be protected. The sign shall provide an appropriate notice and the name of the ~~person~~Person giving the notice, followed by the word “owner” if the ~~person~~Person is the holder of legal title to the land or by the word “occupant” if the ~~person~~Person is a lawful occupant of the land, but not the holder of legal title.

(2) Markings at least one (1) foot long and, in a contrasting color, the phrase “private land” and the name of the owner, are made in at least two (2) conspicuous places for every forty (40) acres of land.

(c) Does any of the following without proper authorization through a ~~lease~~Lease, permit or as otherwise required under applicable law:<sup>1</sup>

(1) Destroys land, waters, livestock, poultry, buildings, equipment, or any property without consent or permission.

(2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the land, or carries away any wood, timber, plant, vegetation or crop on the land.

(3) Engages in any act, or attempted act of hunting, trapping or fishing.

(4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any other property.

<sup>1</sup> Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and Solid Waste Disposal; Chapter 45, Hunting, Fishing and Trapping Law; Chapter 49: All-Terrain Vehicle Law; Chapter 69, Zoning and Shoreland Protection Law.

- (5) Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public.
- (6) Parks or drives any vehicle on the land.
- (7) Permits or allows livestock or any domesticated animal to enter upon or remain upon the land.
- (8) Uses or possesses ~~lease~~Leased or sub~~lease~~-Leased lands beyond the possessory rights granted by such ~~lease~~Lease or sub~~lease~~-Lease.
- (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land.

### 38.7. Violations and Appeals

38.7-1. *Issuance of a Citation.* Any ~~person~~Person who violates any provision of this Law ~~shall~~be guilty of a civil infraction, and ~~shall~~may be issued a citation, in writing, by a Conservation Warden or Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same or any other matter ~~shall~~does not preclude the issuance of a citation under this Law.

(a) The Oneida Business Committee, upon recommendation of the Environmental Resource Board, ~~shall~~may adopt a citation schedule.

(b) The citation ~~shall~~must specify the date, time and place of the hearing to contest the citation. The hearing ~~shall~~must take place ~~at least five~~within (5) business days after the citation is issued.

(c) The citation ~~shall~~must also state that the Environmental Resource Board may, in addition to the citation, impose hearing costs and restitution against the ~~person~~Person for damages caused by a violation of this Law.

38.7-2. *Citation Hearing.* Any ~~person~~Person issued a citation under this Law may contest the citation by attending a hearing before the Environmental Resource Board. The ~~person~~Person may appear in ~~person~~Person, or be represented by an agent, advocate or attorney.

(a) If the ~~person~~Person does not wish to contest the citation, he or she ~~shall~~must pay the citation by the hearing date specified on the citation.

(b) After the hearing, the Environmental Resource Board shall:

(1) determine whether the ~~person~~Person is responsible for the citation, as was issued;

(2) determine whether to impose hearing costs and/or restitution against the ~~person~~Person for the value of any damage caused by a violation of this Law; and

(3) set a new date for when the citation, hearing costs and/or restitution ~~shall~~must be paid, if necessary.

(c) Any restitution funds received shall be used to repair the damages caused by a violation of this Law.

38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

End.

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Adopted – BC-05-15-14-C  
Emergency Amended – BC-07-23-14-C  
Amended – BC-12-10-14-A  
Emergency Amended – BC 07-08-15-C

## CHAPTER 38 PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy  
38.2. Adoption, Amendment, Repeal  
38.3. Definitions  
38.4. Environmental Resource Board

38.5. Land Access Map  
38.6. Trespass  
38.7. Violations and Appeals

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### 38.1. Purpose and Policy

38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and Trespass to Tribal Lands.

38.1-2. *Policy.* It is the policy of the Tribe to limit access to Tribal Land to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

### 38.2. Adoption, Amendment, Repeal

38.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-15-14-C and amended by BC-12-10-14-A.

38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

38.2-3. Should a provision of this Law or the application thereof to any Person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

38.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law controls.

38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

38.2-6. This Law may not be construed to preclude the Tribe from pursuing relief for criminal Trespass under applicable law.

### 38.3. Definitions

38.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “Designation” means the term used to describe the type of access granted to certain Tribal Lands.

(b) “Lease” means any lease or agreement, including business site leases, entered into by the Tribe and any Person to allow the use of Tribal Lands.

(c) “Person” means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(d) “Reservation” means all the lands and waters 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.

(e) “Trespass” means the unauthorized use or entry on Tribal Lands, including unauthorized uses under a Tribal law, permit or Lease.

(f) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

(g) “Tribal Land” means all Tribal trust lands, and any land or interest in land held by the Oneida Tribe in fee or in any other form on the Reservation.

**38.4. Environmental Resource Board**

38.4-1. The Environmental Resource Board has the duty and power to carry out the intent and purposes of this Law and enforce the provisions of this Law. The Environmental Resource Board, or its designated staff, shall:

- (a) Develop, approve and maintain the Land Access Map.
- (b) Hold public hearings on proposed amendments to the Land Access Map.
- (c) Hear and decide, as the original hearing body, contested cases that may arise under this Law.
- (d) Impose hearing costs and restitution against the Person for damages caused by a violation of this Law.
- (e) Determine which Tribal Land will be posted and ensure the appropriate signs are posted.
- (f) Implement and interpret the provisions of this Law.
- (g) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal Land that it designates as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that such permissible and/or prohibited uses may not contradict with the Zoning and Shoreland Protection Ordinance. Upon establishment of permissible and/or prohibited uses, the Environmental Resource Board shall notify the Oneida Business Committee of the permissible and/or prohibited uses and shall post notice of such uses on the affected Tribal Land.

**38.5. Land Access Map**

38.5-1. *Designation of Tribal Lands.* A Land Access Map must be created which designates Tribal Land as one (1) of the following:

- (a) Limited Access: Lands designated as “Limited Access” are open to all Persons who are granted land access permission by the Tribe through a permit or Lease for specified purposes. The Environmental Resource Board may choose to designate a portion of land as Limited Access in order to manage, preserve and protect that land for environmental, cultural or other significance.
- (b) Oneida Community Access: Lands designated as “Oneida Community Access” are open to Tribal members, and their spouses and descendants; members of other federally recognized Indian tribes, bands or communities; authorized employees of the Tribe; and Persons who are accompanied at all times by a Tribal member, the spouse or descendant of a Tribal member, or an authorized employee of the Tribe.
  - (1) A Conservation Warden or Oneida Police Officer may require a Person to demonstrate proof of eligibility to use Oneida Community Access lands.
  - (2) The Environmental Resource Board may choose to designate land as Oneida Community Access in order to manage, preserve and protect access to locations that have cultural or environmental significance.
- (c) Oneida Tribal Member Access: Lands designated as “Oneida Tribal Member Access” are open to Tribal members only. The Environmental Resource Board may designate land as Oneida Tribal Member Access to protect the land for Tribal member use due to the historical, spiritual, cultural and/or environmental significance of the land.
- (d) Open: Lands designated as “Open Access” are generally open to all Persons for the land’s designated use and enjoyment. The Environmental Resource Board may designate land as Open Access where such Designation is deemed beneficial to the Tribe and where

such Designation does not pose significant risk of damage to the policies of the Tribe and/or the land's cultural or environmental preservation.

38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law may be construed as preventing the following Persons from entering Tribal Land, regardless of the land Designation:

- (a) Employees of the Tribe who are performing their job duties;
- (b) Those Persons who are performing grant or contractual obligations related to the Tribal Land and on behalf of the Tribe;
- (c) Emergency personnel who are providing, or attempting to provide, services; and
- (d) Those Persons who have been granted access to the land by the Environmental Resource Board.

38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall develop the Land Access Map in coordination with the Oneida Environmental Health and Safety Division, the Oneida Division of Land Management, Geographic Land Information Systems and other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the initial Land Access Map.

38.5-4. *General Land Designation.* Unless otherwise designated, Tribal Land is designated as Limited Access.

38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to time, in the manner hereafter set forth, amend the Land Access Map, provided that due consideration must be made for the intent and purposes of the Designation.

- (a) Amendments may be proposed by any Person by filing an application with the Environmental Resource Board in such format and accompanied by such information as required by the Board.
- (b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on each application to amend the Land Access Map.

- (1) The Environmental Resource Board shall set a date for the public hearing and meet the notice requirements of the public hearing as soon as possible after the filing of the application is complete.

- (A) *Notice.* Not less than ten (10) business days and not more than thirty (30) business days prior to the public hearing, notice, including the time, place and purpose of the public hearing, must be:

- (i) published in the Tribal newspaper; and

- (ii) mailed to all owners of land located within twelve hundred (1,200) feet of the outer boundaries of the land that is the subject of the public hearing.

- (B) Any Person who cannot attend the public hearing may be represented by an agent, advocate or attorney at the public hearing.

- (C) The Environmental Resource Board shall issue a decision or recommendation regarding amendments to the Land Access Map within seven (7) business days after the public hearing is held.

- (2) The Environmental Resource Board together with the Environmental Health and Safety Division shall, after holding a public hearing and reviewing any comments received, make written findings of fact and determine whether to amend the Land Access Map.

- (3) The Environmental Resource Board shall make findings based upon the evidence presented to it with respect to the following matters:



(A) Existing uses of the land and buildings within the general area of the land in question.

(B) Suitability of the land in question to the uses permitted under the existing Land Access Map.

(4) The Environmental Resource Board may not amend the Land Access Map unless it finds that adopting such amendment is in the Tribe's best interest and is not solely for the interest of the applicant.

(c) The Environmental Resource Board may grant or deny any application to amend the Land Access Map; however, amendments must require a two-thirds (2/3) vote of the Environmental Resource Board if a written protest against any amendment is presented to the Environmental Resource Board and is signed by:

(1) the lessees, assignees and owners of at least twenty percent (20%) of the acres of land included in such amendment; or

(2) the lessees, assignees and owners of at least twenty percent (20%) of the land immediately adjacent to the land included in such amendment, extending in a radius of twelve hundred (1,200) feet of the outer boundaries of the land.

### 38.6. Trespass

38.6-1. A Person Trespasses if the Person enters or otherwise occupies Tribal Land and:

(a) Refuses to leave land to which the Person has no reasonable claim or right of possession when requested to do so.

(b) Enters upon such land after being noticed by the landowner or occupant that permission for the Person to enter such land does not exist, or has been expressly denied or revoked. A Person has been noticed that permission by the landowner or occupant for such Person to enter such land does not exist if he or she has been notified publicly, by publication of the Land Access Map on the Tribal website and/or in the Tribal newspaper, or if the land is posted. Land is considered to be posted if one (1) of the following requirements is met:

(1) A sign at least eleven (11) inches square is placed in at least two (2) conspicuous places for every forty (40) acres of land to be protected. The sign shall provide an appropriate notice and the name of the Person giving the notice, followed by the word "owner" if the Person is the holder of legal title to the land or by the word "occupant" if the Person is a lawful occupant of the land, but not the holder of legal title.

(2) Markings at least one (1) foot long and, in a contrasting color, the phrase "private land" and the name of the owner, are made in at least two (2) conspicuous places for every forty (40) acres of land.

(c) Does any of the following without proper authorization through a Lease, permit or as otherwise required under applicable law:<sup>1</sup>

(1) Destroys land, waters, livestock, poultry, buildings, equipment, or any property without consent or permission.

---

<sup>1</sup> Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and Solid Waste Disposal; Chapter 45, Hunting, Fishing and Trapping Law; Chapter 49: All-Terrain Vehicle Law; Chapter 69, Zoning and Shoreland Protection Law.

- (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the land, or carries away any wood, timber, plant, vegetation or crop on the land.
- (3) Engages in any act, or attempted act of hunting, trapping or fishing.
- (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any other property.
- (5) Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public.
- (6) Parks or drives any vehicle on the land.
- (7) Permits or allows livestock or any domesticated animal to enter upon or remain upon the land.
- (8) Uses or possesses Leased or sub-Leased lands beyond the possessory rights granted by such Lease or sub-Lease.
- (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land.

### **38.7. Violations and Appeals**

38.7-1. *Issuance of a Citation.* Any Person who violates any provision of this Law is guilty of a civil infraction, and may be issued a citation, in writing, by a Conservation Warden or Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same or any other matter does not preclude the issuance of a citation under this Law.

- (a) The Oneida Business Committee, upon recommendation of the Environmental Resource Board, may adopt a citation schedule.
- (b) The citation must specify the date, time and place of the hearing to contest the citation. The hearing must take place within (5) business days after the citation is issued.
- (c) The citation must also state that the Environmental Resource Board may, in addition to the citation, impose hearing costs and restitution against the Person for damages caused by a violation of this Law.

38.7-2. *Citation Hearing.* Any Person issued a citation under this Law may contest the citation by attending a hearing before the Environmental Resource Board. The Person may appear in Person, or be represented by an agent, advocate or attorney.

- (a) If the Person does not wish to contest the citation, he or she must pay the citation by the hearing date specified on the citation.
- (b) After the hearing, the Environmental Resource Board shall:
  - (1) determine whether the Person is responsible for the citation, as was issued;
  - (2) determine whether to impose hearing costs and/or restitution against the Person for the value of any damage caused by a violation of this Law; and
  - (3) set a new date for when the citation, hearing costs and/or restitution must be paid, if necessary.
- (c) Any restitution funds received shall be used to repair the damages caused by a violation of this Law.

38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

*End.*

223 Amended – BC-12-10-14-A  
224 Emergency Amended – BC 07-08-15-C



# Legislative Operating Committee

## September 16, 2015

# Rules of Civil Procedure Amendments

**Submission Date:** 07/15/15

☐ Public Meeting:  
☐ Emergency Enacted:  
Expires:

**LOC Sponsor:** David P. Jordan

**Summary:** *This is a request to amend the Rules of Civil Procedure to remove the filing fee requirement when it is a Tribal entity filing and modify the requirements of service for Tribal entities.*

**7/15/15 LOC:** Motion by David P. Jordan to add the Rules of Civil Procedure Amendments to the active files list; seconded by Fawn Billie. Motion carried unanimously.

**Next Steps:**

- Defer to the sponsor and the Legislative Reference Office to continue working on drafting the amendments and bring back when the draft is complete.

# Oneida Tribe of Indians

## 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** David P. Jordan, Councilmember  
**Date:** September 16, 2015  
**Re:** Rules of Civil Procedure Amendments



On July 15, 2015, a request to amend the Rules of Civil Procedure was submitted to the Legislative Operating Committee (LOC). On July 15, 2015, the LOC added the Rules of Civil Procedure Amendments to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

Two amendments were specifically requested to the Rules, they included (1) removal of the filing fee payment requirement when a Tribal Entity is the filing party and (2) modified service requirements for Tribal Entities allowing service to be made by certified mail as opposed to requiring personal service.

The Legislative Reference Office (LRO) has corresponded with the Oneida Judiciary regarding their position on the requested revisions as well as their input on any other amendments that may be warranted at this time. The Oneida Judiciary responded in opposition to the removal of the filing fee requirement for Tribal Entities and also provided a lengthy list of requested revisions. Among the requested revisions was a request that the Rules be simplified so that pro se litigants are able to more easily understand and follow the requirements of the Rules. The simplification of the Rules is a large undertaking and the LRO is in the process of drafting the amendments.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

### Requested Action

Motion to accept the memorandum regarding the status of the Rules of Civil Procedure Amendments as FYI.





# Legislative Operating Committee

## September 16, 2015

### Tribal Hearing Bodies

**Submission Date:** 9/17/14

Public Meeting:  
Emergency Enacted:  
Expires:

**LOC Sponsor:** Jennifer Webster

**Summary:** *This item was originally submitted to the LOC on November 15, 2013, and the item was carried over into the current term by the LOC. This was a request for the LRO to conduct research on Tribal Boards, Committees and Commissions to find out which are also hearing bodies and where the hearing body authority comes from.*

**9/17/14 LOC:** Motion by Jennifer Webster to add Tribal Hearing Bodies to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously.

**10/15/14 LOC:** Motion by Jennifer Webster to accept the verbal update on the Personnel Commission Legislation; seconded by Fawn Billie. Motion carried unanimously

**6/3/14 LOC:** Motion by Jennifer Webster for the Legislative Operating Committee to send a memorandum to the Oneida Business Committee, to be on their agenda, for the recommendation from the Legislative Operating Committee requesting authority to develop legislation for an administrative court, also drafting a letter to be sent to elected and appointed boards, committees and commissions requesting full cooperation in submitting the data that is asked for; seconded by Fawn Billie. Motion carried unanimously.

**6/10/15 OBC:** Motion by David Jordan to approve the creation of an administrative court and endorse a letter of co-operation to be created that directs the Tribe's boards, committees and commissions to assist the LOC in the creation of the administrative court, seconded by Fawn Billie. Motion carried unanimously.

Motion by Lisa Summers that the LOC create an action plan to be brought back to the Business Committee in 60 days, seconded by Melinda J. Danforth. Motion carried unanimously.

**6/17/15 LOC:** Motion by David P. Jordan to forward the Tribal Hearings Bodies/Administrative Court to an LOC work meeting(s) to discuss the 60-day action plan; seconded by Fawn Billie. Motion carried unanimously.

**7/27/15:** Work meeting held. Attendees include: Brandon Stevens, Tehassi Hill, David P. Jordan, Jennifer Webster, Rhiannon Metoxen, Candice Skenandore, Taniquelle Thurner, Krystal John, Douglass McIntyre.

**8/5/15 LOC:** Motion by Tehassi Hill to accept the Tribal Hearing Bodies/Administrative Court Action Plan and forward it to the Oneida Business Committee for its consideration; seconded by David P. Jordan. Motion carried unanimously.

Motion by Fawn Billie to direct the Oneida Child Protective Board, the Oneida Election Board, the Oneida Environmental Resource Board, the Oneida Land Commission, the Oneida Personnel Commission, the Oneida License Commission and the Oneida Trust/Enrollment Committee to retrieve their financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) and turn the information over to the Oneida Business Committee to help in evaluating which entities should retain their hearing body authority; seconded by Tehassi Hill. Motion carried unanimously.

**8/12/15 OBC:** Motion by Jennifer Webster to accept the action plan for the Tribal Hearing Bodies/Administrative Court and to direct the Oneida Child Protective Board, the Oneida Election Board, the Oneida Environmental Resource Board, the Oneida Land Commission, the Oneida Personnel Commission, the Oneida License Commission and the Oneida Trust/Enrollment Committee to retrieve their financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) and turn the information over to OBC to help in evaluating which entities should retain their hearing body authority, seconded by David Jordan. Motion carried unanimously.

Amendment to the main motion by Lisa Summers that the information be provided by Friday, September 4, 2015, seconded by Fawn Billie. Motion carried unanimously.

**9/9/15 OBC:** Motion by Lisa Summers to accept verbal update regarding the Tribal Hearing Bodies/Administrative Courts, seconded by Jennifer Webster. Motion carried unanimously

**Next Steps:**

- Forward update to the Oneida Business Committee.

# 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  
 David P. Jordan, Councilmember  
 Jennifer Webster, Councilmember

## Memorandum

**TO:** Oneida Business Committee  
**FROM:** Brandon Stevens *BS*  
**DATE:** September 23, 2015  
**RE:** Tribal Hearing Bodies Update

At an Oneida Business Committee (OBC) meeting on August 12, 2015, the OBC directed several boards, committees and commissions submit financial expenses for the last three (3) years including the amount of stipends received, training costs and other expenses. Those boards, committees and commissions include<sup>1</sup>:

Oneida Child Protective Board	Oneida Land Commission
Oneida Election Board	Oneida Personnel Commission
Oneida Environmental Resource Board	Oneida Trust/Enrollment Committee

The entities were given a due date of September 4, 2015. As of September 9, 2015, all boards, committees and commissions had provided information and the responses are attached to this memorandum for reference. The Legislative Reference Office continues to work with the boards, committees and commissions to obtain more information for the OBC to make an informed decision and has compiled the available information into the attached chart.

**Requested Action**

Accept the update on the Tribal Hearing Bodies.

<sup>1</sup> The Oneida License Commission is not an active commission and therefore no notice was sent to the entity.



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

## **Oneida Tribe of Indians of Wisconsin**

### **BUSINESS COMMITTEE**




**P.O. Box 365 • Oneida, WI 54155**  
**Telephone: 920-869-4364 • Fax: 920-869-4040**



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

**TO:** Oneida Child Protective Board  
 Oneida Election Board  
 Oneida Environmental Resource Board  
 Oneida Land Commission  
 Oneida Personnel Commission  
 Oneida Trust/Enrollment Committee

**FROM:** Lisa Summers, OBC Secretary 

**DATE:** August 18, 2015

**RE:** Request for financial expenses

With adoption of the Judiciary Law, the Oneida Business Committee (OBC) has been exploring the possibility of transferring the hearing authority delegated to various boards, committees and commissions to an administrative court. At the request of the Legislative Operating Committee (LOC), the following action took place at the August 12, 2015 OBC meeting:

*Motion by Jennifer Webster to ... direct the Oneida Child Protective Board, the Oneida Election Board, the Oneida Environmental Resource Board, the Oneida Land Commission, the Oneida Personnel Commission, the Oneida License Commission<sup>1</sup> and the Oneida Trust/Enrollment Committee to retrieve their financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) and turn the information over to Oneida Business Committee to help in evaluating which entities should retain their hearing body authority, seconded by David Jordan. Motion carried unanimously.*

The OBC has requested this information be provided by: **Friday, September 4, 2015.**  
 Please submit the requested information to: **LOC@oneidanation.org**

If you have questions on this request, please contact Councilman Brandon Stevens, LOC Chairman, at 920-869-4378 or [bsteven@oneidanation.org](mailto:bsteven@oneidanation.org)

<sup>1</sup> The Oneida License Commission is not active, therefore notice is not being sent to this entity.

# ONEIDA CHILD PROTECTIVE BOARD

Dale Powless - Chairman  
Lois Strong - Vice Chairwoman  
Jeanette Ninham - Secretary  
Wesley Martin- Member  
Beverly Anderson- Member  
Carol Silva- Member  
Beverly Skenandore - Member

**on<yote>a=ka**  
3757 W Mason St Green Bay WI 54303  
RidgeView Plaza – Suite 4  
P O Box 365, Oneida WI 54155

Patricia Garvey – Attorney  
Michelle Mays - Attorney  
Evander Delgado- Admin.

To: Oneida Business Committee

From: Dale Powless, Chairman-Oneida Child Protective Board

Date: August 20<sup>th</sup>, 2015

Subject: Hearing Process

Dear Business Committee,

Per the Business committee meeting of August 12, 2015 directive we are preparing this summary from the Oneida Child Protective Board. The board has not had any hearings in the last three years. The Child Protective Board has had the authority to conduct hearings per Section 4.4 of our By-Law's Child Care Hearing. The OCPB has not had any training, stipends or any other cost for any Child case hearings.

I can be reached at [dpowless@oneidanation.org](mailto:dpowless@oneidanation.org) or at 869-1059.

Thank You,

Dale Powless, Chair



# MEMORANDUM

TO: Lisa Summers, Tribal Secretary

FROM: Racquel Hill, Election Board Chairperson *RH*

DATE: September 1, 2015

SUBJ: Response for Request for Financial Expenses

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The Election Board is in receipt of your memo dated August 18, 2015 requesting financial expenses for the last three (3) years (including, but not limited to, the amount of stipends received, training costs and other expenses) specific to hearings.

From 2013-2015, there were three (3) hearings held in June, 2014 and the Chairperson attended a challenge at the Appeals Commission level in July, 2014. The costs include stipends paid to the hearing bodies and to the Chairperson which totals \$1,300.00.

The Election Board is aware of the possibility of transferring the hearing authority to the Judiciary and is in favor of such transfer. However, please note that the three (3) hearings held in 2014 were relative to the election of Judiciary officers, and this is something that may need to be addressed with the Legislative Operating Committee (LOC).

If the Election Board can be of further assistance, let me know.

c: Election Board

## Tribal Hearing Bodies/Administrative Court Action Plan

### **Comments from Environmental Resource Board – Submitted 8/26/15**

In response to the inquiry regarding the Environmental Resource Board's (ERB) hearing process, ERB staff has compiled the following information.

#### Finances

The ERB no longer has budget funding for training hearing officers. However, the ERB is working cooperatively with other hearing bodies to obtain collective training on hearing procedures, rules of law, reporting/documenting, and other matters. The only expenses for hearings are stipends for hearing officers and minimal staff time. Over the past 3 years these are calculated to be \$3,000 (calculations detailed on next page).

#### Hearing Integrity

The ERB has taken pride in having experienced and well-trained hearing officers. The ERB has never had a decision appealed. The laws the ERB hears such as the Hunting, Fishing, and Trapping Law; the Domestic Animal Ordinance and others have multitudes of details and nuances that ERB members are strongly familiar with. This familiarity with the laws allows ERB hearing officers to interpret and judge accurately the details of each case and fairly address the respondents of the citations.

#### Community Fabric

Most ERB members are familiar with the activities in the Oneida community relating to hunting, fishing, and recreation opportunities. Due to this familiarity, ERB hearing officers are equipped to understand the nuances and details of each case as they apply to various areas of Oneida law, Oneida sportsmanship, and good community relations. ERB hearing officers work in an amicable manner with respondents to reach a decision that reflects some accommodation for the special circumstances and interests of each case. ERB members also do volunteer work at community events throughout the year that puts them in good standing with the Oneida community, maintaining a sense of openness and trust.

#### Conclusion

The Environmental Resource Board has a successful history of properly managing the hearing duties entrusted to them and maintains an engaged relationship with the Oneida community through public meetings, volunteer events, and community projects. The ERB looks forward to continuing their strong history of environmental stewardship through hearing body responsibilities.



**Yaw^ko!**

### Hearing expenses

The following are financial expenses for hearings from FY2015, FY2014, and FY2013. The average number of hearings per year is 4. Some hearing dates review multiple citations from one or more parties. The total number of hearing dates over 3 years time is 12.

Costs associated with hearings include stipends for hearing officers. Each hearing has 4 ERB members (3 hearing officers and one alternate) at a stipend of \$50 each. The second cost is ERB staff time. The time is estimated at 1 hour to prepare, copy, and mail hearing materials and another hour to attend hearing as clerk to document proceedings and draft final decision (2 hours total).

As the ERB budget line for training was eliminated several years ago, there have been no costs for training over the past 3 years. The ERB however has many experienced members that have extensive practice in properly administering hearings.

Therefore, the average expense per hearing is:

Stipends:  $\$50/\text{member} \times 4 \text{ members} = \$200$

Staff time:  $\$25/\text{hour} \times 2 \text{ hours} = \underline{\$50}$

Total per hearing:  $\$250$

The cost over 3 years for 12 hearings is estimated at being approximately \$3,000

# MEMO

TO: LOC

FROM: Lori Elm, DOLM Office Manager

DATE: September 9, 2015

SUBJ: Response for Request for Financial Expenses

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The Division of Land Management has gathered the financial expenses for the last three (3) years pertaining to the cost of hearings, trainings and costs.

From 2013-2015, the following hearings were held with 3 officers present for each hearing:

**5 Probate Hearings:** Each officer is paid \$50.00 per hearing. **Total of \$750.00**

**1 Procedural Complaint Hearing:** Each officer is paid \$50.00 per hearing. **Total of \$150.00**

**10 Foreclosures or Motion to Stay:** Each officer is paid \$150.00 per hearing. **Total of \$4500.00**

**4 Eviction/Lease issues:** Each officer is paid \$50.00 per hearing. **Total of \$600.00**

**Total cost of Hearings: \$6000.00**

If you need any further information please let me know, I do apologize for the tardiness of my response.

## Oneida Personnel Commission

Post Office Box 365

Phone: (920) 490-3978

Oneida, WI 54155


Location: Social Services

Third Floor



### MEMORANDUM

To: LOC

From: Gina Buenrostro, Administrator, Oneida Personnel Commission 

Date: September 4, 2015, 2015

Subject: Information requested

---

The information is as follows pertaining to the stipends for the Oneida Personnel Commission:

2012	Grievance and Training Stipends	\$61, 525.00
2013	Grievance and Training Stipends	\$72, 120.00
2014	Grievance and Training Stipends	\$46, 607.00

If you have any questions, please feel free to contact me.

Cc: file



# ONEIDA TRUST DEPARTMENT

## COMMITTEE

Carole Liggins, Chairwoman  
Debra Danforth, Vice Chair  
Elaine Skenandore-Cornelius,  
Secretary  
Linda Dallas, Member  
Norbert Hill, Member  
Loretta V. Metoxen, Member  
Rita Reiter, Member  
Lois Strong, Member  
Brandon Stevens, Liaison


## onayote'a'ka latiwista'nunha

909 Packerland Dr, Green Bay WI 54303  
P O Box 365, Oneida WI 54155  
Ph: (920) 490-3935 Fax: (920) 496-7491

## DEPARTMENT

Susan White, Director  
Michelle Mays, Attorney  
James Bittorf, Attorney  
Jeff House, Financial Analyst  
Bonnie Pigman, Int. Research Asst.  
Carol Silva, Admin. Asst.

MEMO TO: Legislative Operating Committee

FROM: Susan White, Trust Director 

SUBJ: Oneida Trust/Enrollment Committee Hearing Expenses

DATE: 20 August 2015

The Oneida Trust/Enrollment Committee held the following hearings from 2013 to June 2015. The stipends paid are below:

05/21/2013 hearing and stipend paid in the amount of :	\$400.00
04/29/2014 hearing and stipend paid in the amount of :	\$575.00
12/02/2014 hearing and stipend paid in the amount of :	\$550.00
01/13/2015 hearing and stipend paid in the amount of :	\$475.00
05/28/2015 hearing and stipend paid in the amount of :	\$475.00
06/23/2015 hearing and stipend paid in the amount of :	<u>\$625.00</u>
Total	\$3,100.00

The Trust/Enrollment Committee did not incur training costs or other direct expenses. The Oneida Trust/Enrollment Committee bylaws and the Tribal Membership Ordinance are attached for your reference. Please let me know if you have further Trust/Enrollment Committee hearing questions. Yawá'kó.

### Attachments:

- Trust/Enrollment Committee Bylaws approved by GTC 2012
- Membership Ordinance approved by GTC 1984

## STIPEND COMPARISON CHART

<b>Children's Protection Board</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings	0	0	0	0	Average Cost/Hearing	\$0
Training	\$0	\$0	\$0	\$0		
Stipends for hearings	\$0	\$0	\$0	\$0		
<b>Election Board</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings	0	3	0	3	Average Cost/Hearing	\$433
Training	\$0	\$0	\$0	\$0		
Stipends for hearings	\$0	\$1,300	\$0	\$1,300		
<b>ERB</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings	4	4	4	12	Average Cost/Hearing	\$250
Training	\$0	\$0	\$0	\$0		
Stipends for hearings And Staff time	\$1,000	\$1,000	\$1,000	\$3,000		
<b>Land Commission</b> *average	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings				20	Average Cost/Hearing	\$300
Training						
Stipends for hearings	*\$2,000	*\$2,000	*\$2,000	\$6,000		
<b>Personnel Commission</b> *information for 2012-2014 received	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings	unknown	unknown	unknown	unknown	Average Cost/Hearing	
Training	-	-	-	-		
Stipends for hearings Combined with training	\$72,120	\$46,607	Unknown	At least \$118,727		
<b>Trusts/Enrollment</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>		
Number of hearings	1	2	3	6	Average Cost/Hearing	\$516
Training	\$0	\$0	\$0	\$0		
Stipends for hearings	\$400	\$1,125	\$1,575	\$3,100		

\*The Oneida License Commission is not active and therefore has been left out

**\*The chart will be updated as a handout at the time of the LOC meeting on 9/16/15**

# Legislative Operating Committee



## Agenda Request Form

- 1) Request Date: September 9, 2015
- 2) Contact Person(s): Jeff Mears Dept: Environmental  
Phone Number: 869-4555 Email: jmeares@oneidanation.org
- 3) Agenda Title: Domestic Animals Law
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee  
To protect community members from disease, set minimum standards for treatment  
of animals, prohibit certain animals from being brought on the reservation,  
regulate livestock, and establish consequences for damages caused by domestic  
animals.

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

- 1) draft law
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 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:  
OHA, OPD, Conservation, and Zoning
- 7) Do you consider this request urgent? ☐ Yes ☒ No  
If yes, please indicate why: \_\_\_\_\_

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

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

*Jeff Mears*

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or

**Legislative Operating Committee (LOC)**

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**Chapter 34**  
**~~ONEIDA TRIBAL REGULATION OF DOMESTIC ANIMALS ORDINANCE~~**  
**Kátse'na Olihwa'ke**  
matters concerning the pet animals

34.1. Purpose and Policy

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**~~34.1-1. Purpose and Policy-~~**

~~34.1-1.~~ The purpose of this ~~law~~Law is to:

~~(a)~~ protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;

~~(b)~~ set minimum standards for the treatment of animals;

~~(c)~~ prohibit certain species of animals from being brought onto the Reservation;

~~(d)~~ regulate the keeping of livestock on the Reservation; and

~~(e)~~ establish consequences for damages caused by domestic animals.

~~34.1-2.~~ It is the policy of this ~~law~~Law to ~~clearly~~clearly set out ~~procedures and~~ requirements for licensing domestic animals, as well as to regulate what kinds of animals may be kept as domestic animals. It is also the policy of this ~~law~~Law to set out ~~in detail~~ the structure for assessing and collecting license fees and fines ~~to domestic animals under this Law~~, and for investigating and enforcing violations of this ~~law~~Law.

**~~34.2-1. Adoption, Amendment, Repeal-Conflicts~~**

~~34.2-1.~~ This ~~law is~~Law was adopted by ~~the~~ Oneida Business Committee ~~in accordance with the Administrative Procedures Act by~~ Resolution BC-03-13-96-B and amended by Resolution ~~BC-06-22-11-G and~~.

~~34.2-2.~~ This ~~law~~Law may be amended ~~or repealed by the Oneida Business Committee~~ pursuant to the procedures set out in the ~~Oneida Administrative~~Legislative Procedures Act ~~by the Oneida Business Committee or the Oneida General Council.~~

~~34.2-3.~~ Should a provision of this ~~law~~Law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall~~does not affect other provisions of this ~~law~~Law which are considered to have legal force without the invalid portions.

~~34.2-4.~~ ~~All other Oneida law, policies, regulations, rules, resolutions, motions, and all other similar actions which are inconsistent with this law are hereby superseded unless specifically re-enacted after adoption of this law.~~

~~34.2-4.~~ In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control. Provided that, nothing in this Law is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

~~34.2-5.~~ This ~~law~~Law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**~~34.3-1. Definitions~~**

~~34.3-1.~~ This ~~article shall contain~~section governs the definitions of words and phrases used within this ~~law~~Law. All words ~~and phrases~~ not defined ~~within this Article, or defined in any section, herein~~ are to be used in their ordinary ~~and everyday~~ sense.

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(a) ~~“Conservation Official” includes any employee of the Conservation Department designated by the Oneida Business Committee to implement and enforce this law.~~

(b) ~~“District Quarantine” results when~~ (a) “District quarantine” means a rabid or otherwise diseased domestic animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are rounded up and tested for rabies or other diseases.

(b) “Disturbance” means excessive barking, running loose, biting or engaging in threatening behavior.

(c) ~~“Domestic Animals” refers to animals~~ means dogs, cats, ~~weasels~~ferrets, rabbits, guinea pigs, turtles, ~~tropical~~ birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids, and all other animals commonly owned as household pets ~~on tribal land.~~

(d) ~~“Livestock” includes~~means any equine (i.e. horse, donkey, ect.), bovine, (i.e. cow, steer, heffer, ect.), sheep, goat, pig, or domestic fowl, including game fowl raised in captivity.

(e) ~~“Tribal Land” includes all tribal lands held in trust; all tribal lands held in fee status; all fee status lands under the control of individual members of any federally or state recognized Indian tribe, band or community; all heirship lands; and all individual trust lands within the present confines of the Reservation; and to such other lands as may be hereafter added thereto under any law of the United States, except as otherwise provided by applicable law~~

(e) “Nuisance dog” means a dog whose actions results in two (2) or more verified disturbances to the owner’s neighbors.

(f) ~~“Owner” means any person who owns,~~ harbor~~harbors~~, keeps, or controls an animal.

#### ~~34.4-1. Licensing Authority, Investigation Responsibilities and Enforcement Powers. The Oneida Conservation Department~~

#### ~~(a) The Oneida Conservation Department shall~~ 34.4. Jurisdiction

##### 34.4-1. Personal Jurisdiction. This Law applies to:

(a) All Oneida Tribal members, Tribal entities, Tribal corporations and members of other federally recognized tribes.

(b) Individuals and businesses leasing, occupying or otherwise using Tribal fee land and all Tribal trust lands.

(c) Individuals who have the power consented to issue and collect fees for licenses and shall the jurisdiction of the Tribe or as otherwise consistent with federal law. For purposes of this subsection, an individual will have the power consented to the jurisdiction of the Tribe:

(1) By entering into a consensual relationship with the Tribe, Tribal entities Tribal corporations, or Tribal members, including but not limited to contracts or other agreements; or

(2) By other facts which manifest an intent to consent to the authority of the Tribe, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.



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34.4-2. Territorial Jurisdiction. This Law extends to all land within the exterior boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, any lands added thereto pursuant to federal law and all lands held in trust for the Tribe within the State of Wisconsin.

### 34.5. Licensing, Authority, Investigation, Responsibilities and Enforcement Powers

34.5-1. Oneida Police Department. Oneida Police Officers and Conversation Wardens shall investigate complaints involving domestic animals and have the authority to levy and collect fines against those who violate this ~~law~~ Law consistent with the penalty provisions as ~~further~~ set out in ~~this law~~.

~~(b) All license fees revenue collected by the Oneida Conservation Department shall go into its general fund. All revenue from the collection of fines paid for violations of accordance with this ordinance shall go into the Oneida Police Department general fund. The Oneida Conservation Department shall be responsible for implementing this law and for placing animals in the necessary institutions as required by this law.~~

#### 34.4-2. The Oneida Police Department

~~(a) The Oneida Police Department shall be charged with investigating complaints on tribal land involving domestic animals and shall have the authority to issue citations to those in violation of this law~~ Law, and ~~shall be~~ are authorized to seize animals suspected to be ~~mistreated~~, rabid or otherwise ~~in danger or~~ dangerous, ~~the~~. An officer ~~or warden~~ may, as a last resort ~~kill such animal~~, in a humane manner and in a manner that avoids damage to the animal's head, ~~kill an animal suspected to be rabid or dangerous~~.

~~34.4-3. Contesting a Fine or Citation.~~ Any person issued a fine or citation under this law may contest it by attending a hearing before the Environmental Resource Board 34.5-2. Oneida Conservation Department The Oneida Conservation Department shall issue licenses and collect fees for licenses issued under this Law.

34.5-3. All revenue collected for license fees and fines under this Law shall go into the general fund.

### 34.6.

### 34.5-1. Licensing and Immunization Requirements for Dogs and Cats

#### 34.6-1. License required.

~~(a) Required.~~ A ~~dog~~ license is required for the keeping of any dog ~~or cat~~ over five ~~(5)~~ months of age.

~~(1)a)~~ Upon payment of the required ~~dog~~ license fee and upon presentation of evidence that the ~~dog~~ animal is currently immunized against rabies, the ~~conservation official~~ Oneida Conservation Department shall ~~complete and~~ issue to the owner a license ~~for the dog bearing a serial number and in the form prescribed by the Conservation Department stating the date of its expiration, the owner's name and address, and the name, sex, sprayed or unsprayed, neutered or unneutered, breed and color of the dog.~~

~~(2) The conservation official shall keep a duplicate of the license on file.~~

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~~(3) After issuing the license, the conservation official shall deliver to the owner a tag of durable material bearing the same serial number as the license, the Oneida Tribe of Indians of Wisconsin as issuer, and the license year~~for the animal.

~~(4)b~~ The owner shall securely attach the tag to a collar and a collar with the tag attached shall be kept on the ~~dog~~animal for which the license is issued at all times ~~but this.~~ This requirement does not apply to a dog while hunting, to a dog or cat securely confined in a fenced area or to a dog while actively involved in herding or controlling livestock if the dog is under control of its owner. —

~~(5) A new tag with a new number shall be furnished to the owner by a conservation official in place of the original tag upon presentation of the license. The conservation official shall then endorse the new tag number on the license and shall keep a record on file.~~

~~(6)c~~ The license year commences on January ~~1~~<sup>st</sup> and ends December ~~31~~<sup>st</sup>.

~~(7)d~~ The owner of a dog or cat more than five ~~(5)~~ months of age on January ~~1~~<sup>st</sup> of any year; or five ~~(5)~~ months of age within the license year shall annually, on or before the date the ~~dog~~animal becomes five ~~(5)~~ months of age, pay the ~~dog~~ license fee and obtain a license.

~~(8) The license fee shall be~~ Licensing fees will be \$5 for a neutered male dog or spayed female dog, and \$10 for an unneutered male dog or unspayed female dog, or one half these amounts if established by the ~~dog~~ became five months of age after July 1.

~~(b) Exemption of dogs for blind, deaf, and mobility impaired.~~

~~(1) Every dog specially trained to lead blind or deaf person or to provide support for mobility impaired persons is exempt from the dog license fee and every person owning such dog shall receive annually a free dog license from the Conservation Official upon application.~~

~~(c) Anyone found in violation of sec. 5-1, shall be subject to the following penalties:~~

~~(1) A fine of not less than \$5 nor more than \$100 for failing to obtain a license for a dog that requires such license to be paid to the Oneida Conservation Department~~ and approved by the Oneida Business Committee.

~~(2) A fine of not less than \$1 nor more than \$10 for obtaining a license for a dog after the required deadline for obtaining such license had passed; to be paid to the Conservation Department.~~

34.56-2. ~~Rabies vaccinations required.~~

~~(a) Vaccinations Required.~~ Rabies vaccination is required for any dog or cat five ~~(5)~~ months of age or older.

~~(1) The owner of a dog or cat shall have the dog animal vaccinated against rabies as directed by a veterinarian within 30 days after the dog reaches four months of age and revaccinated within one year after the initial vaccinations.~~

~~(2) If the owner obtains the dog or brings the dog onto Oneida tribal land after the dog has reached four months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought onto Oneida tribal land unless the dog has been vaccinated from the state of Wisconsin or~~

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another state.

(3) ~~The owner of a dog shall have the dog vaccinated against rabies after the first two specified vaccinations by a veterinarian before the date that the immunization expires as stated on the certificate of vaccinations. Beginning with the second vaccination, all vaccinations expire within either one year, two years, or three years, as specified on the certificate of vaccination.~~

~~(b) District Quarantine.~~

~~(1) Dogs confined.~~ 34.6-3. District Quarantine.

(a) If a district is quarantined for rabies, all dogs and cats within the district shall be kept securely confined, tied, leashed, or muzzled. Any dog or cat not confined, tied, leashed, or muzzled is declared a public nuisance and may be impounded. All Oneida Police Officers and Oneida Conservation Department officers Wardens shall cooperate in the enforcement of the quarantine.

~~(2) Exemption of vaccinated dog from district quarantine. A dog~~ (b) An animal that is immunized ~~currently~~ against rabies as ~~evidence~~ evidenced by a valid certificate of rabies vaccination or other evidence is exempt from the district quarantine provisions of ~~see. 5-2(b)(1).~~ this section.

~~(c) Anyone found in violations of sec 5-2 shall be subject to the following penalties:~~

~~(1) Failure to obtain rabies vaccinations. An owner who fails to have a dog vaccinated against rabies as required under sec. 5-2(a) shall be subject to a fine of not less than \$50 nor more than \$1,000 to be paid to the Conservation Department.~~

~~(2) Refusal to comply with order or quarantine. An owner who refuses to comply with an order issued under this section to deliver an animal to an officer, isolation facility or veterinarian shall be fined not less than \$50 nor more than \$1,000.~~

~~34.5-3. Nuisance and vicious dogs.~~

~~(a) "Nuisance dog" is defined as one whose actions results in two or more verified disturbances to the owner's neighbors.~~

~~(1) "Disturbance" is defined as a dog engaging in excessive barking, running loose, biting, or engaging in threatening behavior.~~

~~(2) The Oneida Police Department is responsible for verifying the complaints.~~

~~(3) Any nuisance dog may be picked up by the Oneida Police Department or Conservation Department.~~

~~(6-4) A dog engaging in threatening behavior, biting, or running loose shall be ordered kept securely confined, muzzled and otherwise securely leashed until such time as the Oneida Conservation Department shall be informed that the behavior of the dog has changed. An owner violating an order issued under this subsection shall be subject to a fine not less than \$50 nor more than \$1000.~~

~~(b) A vicious dog is defined as one who commits two or more unprovoked attacks on anyone, including the owner. The Oneida Police Department is responsible for verification.~~

~~(1) The Oneida Police Department may dispose of vicious dogs at any time when public safety is immediately threatened. When public safety is not immediately~~

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threatened, the Oneida Police Department may order the owner to dispose of the dog within ten days of a written order to do so.

(2) Animals which are running game animals or that create an immediate threat to public safety or to tribal personnel may be dealt with by using reasonable force to contain such animals. Only the Oneida Police Department and Conservation officials may perform this function.

(c) All dogs subject to this ordinance shall be restrained within a cage or fence or be tied up to an object that restrains the animals from roaming freely outside of the owner's premises. Said restraints shall apply only to owners whose residences are closer in proximity than a 1.5 acre radius to another residence.

#### 34.5-4. Dogs running and Cats Running at large.

(a) Large. It shall be unlawful for any person owning or possessing any dog or cat to permit the same to run at large. For the purpose of this paragraph, "running at large" shall be defined to be the presence of a dog animal to be at any place except upon the premises of the owner.

(1) A dog shall not be considered to be running at large if, unless it is on a leash and under control of a person physically able to control it.

#### (b) Impounding dogs

(1)(a) Any nuisance dog may be picked up by Oneida Police Officers or Oneida Conservation Wardens.

(b) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida Conservation Department.

(c) Whenever any Oneida Police Office Officer, Oneida Conservation Warden, or other person designated by the Chief of Police shall find finds any dog or cat running at large as defined in this ordinance, the officer/warden shall, if possible, pick up, and impound such animal in such a place as the Oneida Chief of Police may direct.

(2)d) Whenever any impounded dog shall bear animal bears an identification mark such as a collar with identification tags or license tag, the owner shall be notified forthwith. Any dog impounded shall be held for a period of seven days. At the end of the seven days the impounded dog shall be disposed of unless the owner thereof shall reclaim such dog and pay at the Police Department the reasonable cost of keeping such dog and an impounding fee of \$10 for the first impounding and of \$25 for the second impounding immediately.

#### 34.6-5-5. Limit on Number of dogs limited Dogs and Cats. Except as provided in residential areas.

(a) No 34.6-8, no person shall own, may harbor, or possess any combination of more than five (5) dogs and cats (for example, three (3) dogs within any lot of Oneida tribal land zoned as residential, except a person who:

(1) owned, harbored and two (2) cats or possessed three (3) cats and two (2) dogs), however, no more than five dogs on the date he or she became subject to this law. This exclusion shall continue as long as the owner keeps such animals, but does not permit additional three (3) dogs which exceed the limit; or

(2) keeps a litter of pups or a portion of a litter for a period not exceeding five

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months from birth; or  
(3) receives a permit from the Oneida Land Commission to operate a kennel.  
~~(b) or three (3) cats will be allowed in a single household.~~ If more than one (1) family resides on any lot, the party exceeding the limitation imposed by this section is in violation thereof.

**34.6-1. Licensing** ~~6. Exception to Limit of Dogs and Immunization Requirement for Cats.~~  
~~License required.~~

(a) A cat license is required for the keeping of any cat over five months of age.

~~(1) Upon payment of the required cat license fee and upon presentation of evidence that the cat is currently immunized against rabies, the conservation official shall complete and issue to the owner a license for the cat bearing a serial number and in the form prescribed by the Conservation Department stating the date of its expiration, the owner's name and address, and the name, sex, spay or unsayed, neutered or unneutered, breed and color of the cat.~~

~~(2) The conservation official shall keep a duplicate copy of the license.~~

~~(3) After issuing the license, the conservation official shall deliver to the owner a tag of durable material bearing the same serial number as the license, the Oneida Tribe of Indians of Wisconsin as issuer, and the license year.~~

~~(4) The owner shall securely attach the tag to a collar and a collar with the tag attached shall be kept limit on the cat for which the license is issued at all times.~~ number of dogs and cats a person may own, harbor or possess does not apply to those persons who:

~~(5) A new tag with a new number shall be furnished to the owner by a Conservation Official in place of the original tag upon presentation of the license. The Conservation Official shall then endorse the new tag number on the license and shall keep a record on file.~~

~~(6) The license year commences on January 1 and ends December 31.~~

~~(7) The owner of a cat more than five months of age on January 1 of any year, or five months of age within the license year shall annually, on or before the date the cat becomes five months of age, pay the cat license fee and obtain a license.~~

~~(8) The license fee shall be \$5 for a neutered male cat or spayed female cat, and \$10 for an unneutered male cat or unsayed female cat, or one half these amounts of the cat fee if the cat became five months of age after July 1.~~

~~(b) Anyone found in violation of sec 6-1, shall be subject to the following penalties:~~

~~(1) A fine of not less than \$5 nor more than \$100 for failing to obtain a license for a cat that requires such license to be paid to the Conservation Department.~~

~~(2) A fine of not less than \$1 nor more than \$10 for obtaining a license for a cat after the required deadline for obtaining such license has passed to be paid to the Conservation Department.~~

**34.6-2. Rabies vaccinations required.**

~~(a) Rabies vaccination is required for any cat five months or older.~~

~~(1) The owner of a cat shall have the cat vaccinated against rabies by a veterinarian within 30 days after the cat reaches four months of age and revaccinated within one year after the initial vaccinations.~~



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(2) ~~If the owner obtains the cat or brings the cat onto Oneida tribal land after the cat has reached four months of age, the owner shall have the cat vaccinated against rabies within 30 days after the cat is obtained or brought on to the Oneida tribal land unless the cat had been vaccinated from the state of Wisconsin or another state.~~

(3) ~~The owner of a cat shall have the cat vaccinated against rabies after the first two specified vaccinations by a veterinarian before the date that the immunization expires as stated on the certificate of vaccinations. Beginning with the second vaccination, the next vaccinations expire within either one year, two years, or three years, as specified on the certificate of vaccination.~~

~~(b) District Quarantine.~~

~~(1) Cats confined. If a district is quarantined for rabies, all cats within the district shall be kept securely confined, tied, leashed, or muzzled. Any cat not confined, tied, leashed, or muzzled is declared a public nuisance and may be impounded. All Oneida Police and Conservation Department officers shall cooperate in the enforcement of the quarantine.~~

~~(2) Exemption of vaccinated cat from district quarantine. A cat that is immunized currently against rabies as evidence is exempt from the district quarantine provisions of sec. 6-2(b)(1).~~

~~(c) Anyone found in violations of sec. 5-2 shall be subject to the following penalties:~~

~~(1) Failure to obtain rabies vaccinations. An owner who fails to have a cat vaccinated against rabies as required under sec. 5-2(a) shall be subject to a fine of not less than \$50 nor more than \$1,000 to be paid to the Conservation Department.~~

~~(2) Refusal to comply with order or quarantine. An owner who refuses to comply with an order issued under this section to deliver an animal to an officer, isolation facility or veterinarian shall be fined not less than \$50 nor more than \$1,000.~~

~~34.6-3. Cats running at large.~~

~~(a) It shall be unlawful for any person owning or possessing any cat to permit the same to run at large. For the purpose of this paragraph, "running at large" shall be defined to be the presence of a cat at any place except upon the premises of the owner.~~

~~(1) A cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.~~

~~(b) Impounding cats.~~

~~(1) Whenever any Oneida Police Officer or other person designates by the Chief of Police shall find any cat running at large as defined in this ordinance, the office shall, if possible, pick up, and impound such animal in such place as the Oneida Chief of Police may direct.~~

~~(2) Whenever any impounded cat shall bear an identification mark such as a collar or license tag, the owner shall be notified forthwith. Any cat impounded shall be held for a period of seven days. At the end of the seven days the impounded cat shall be disposed of unless the owner thereof shall reclaim such cat and pay at the Police Department the reasonable cost of keeping such cat and an impounding fee~~

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of \$10 for the first impounding and of \$25 for the second impounding.

~~34.6-4. Number of cats limited in residential areas.~~

~~(a) No person shall own, harbor, or possess more than five cats within any lot of Oneida tribal land zoned as residential, except a person who:~~

~~(1)(a) owned, harbored or possessed more than five three (3) dogs and/or three (3) cats and/or any combination of more than five (5) dogs and cats on the date he or she became subject to this law. Law or the date this limit goes into effect, whichever occurs later, provided that all of such animals are properly licensed within five (5) months after this limit goes into effect. This exclusion shall continue as long as the owner keeps such animals, but does not permit the licensing of additional dogs or cats which exceed the limit limits in 34.6-5; or~~

~~(2) keeps b) keep a litter of pups or kittens or a portion of a litter for a period not exceeding five (5) months from birth; or~~

~~(3) receives (c) have a household on a farm where “farm” means any parcel of land which is used in the raising of agricultural products, livestock, poultry, aquaculture, and/or fish; or~~

~~(d) are exempt from the limits based on applicable zoning regulations or, provided all applicable zoning requirements are complied with, receive a permit from the Oneida Land Commission to operate a kennel. harbor or possess dogs and/or cats in excess of the limits provided in 34.6-5.~~

~~(b) If more than one family resides on any lot, the party exceeding the limitation imposed by this section is in violation thereof.~~

~~34.7. Treatment~~ ~~34.7-1. Immunization of other Domestic Animals and Livestock. Rabies inoculation recommended. All warm-blooded animals, domestic and wild, are susceptible to rabies. Once affected by rabies, the disease is fatal to uninoculated animals and untreated humans. The inoculation of dogs and cats as required in Articles five and six is recommended for other domestic animals and livestock.~~

~~34.8-1. Prohibited Animals.~~ of Animals

~~34.7-1.~~ No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient daily supply of food and water.

(a) The amount of food must be sufficient to maintain the animal in good health.

(b) If potable water is not accessible to the animal at all times, it must be provided in sufficient quantity to maintain the animal in good health.

~~34.7-2. Shelter.~~

(a) Minimum indoor standards of shelter:

(1) The ambient temperature shall be compatible with the health of the animal.

(2) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(b) Minimum outdoor standards of shelter:

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(1) Shelter from Sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. “Caged” does not include farm fencing used to confine farm animals.

(2) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(3) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a weather appropriate shelter of suitable size to accommodate the dog shall be provided.

(c) Space Standards. Minimum space requirements for both indoor and outdoor enclosures:

(1) The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(A) Specifically, dog kennels must meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel:

<u>DOG SIZE (LBS)</u>	<u>REQUIRED BASE KENNEL SPACE</u>	<u>REQUIRED ADDITIONAL KENNEL SPACE PER ADDITIONAL DOG</u>
<u>1-35 lbs</u>	<u>80 Sq. Ft.</u>	<u>12 Sq. Ft.</u>
<u>36-75 lbs</u>	<u>100 Sq. Ft.</u>	<u>18 Sq. Ft.</u>
<u>76 lbs or more</u>	<u>120 Sq. Ft.</u>	<u>24 Sq. Ft.</u>

(d) Sanitation Standards. Minimum standards of sanitation for both indoor and outdoor enclosures require excreta to be removed within twenty-four (24) hours of its deposit. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

34.7-3. Mistreatment of Animals. No person may treat any animal in a manner which causes unnecessary and excessive pain or suffering or unjustifiable injury or death. This section does not apply to:

(a) normal and accepted veterinary practices; or

(b) teaching, research or experimentation conducted at a facility regulated under federal or applicable state law.

### **34.8. Prohibited Animals**

34.8-1. Prohibited Animals. Except as provided in 34.8-2, no person may bring into, keep, harbor, maintain, offer for sale or barter,, act as a custodian, have custody or control of, or release to the wild on ~~Oneida Tribal land~~ the Reservation and Exotic Animal.

34.8-2. Exotic Animals. The following orders and families, whether bred in the wild or in

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captivity, and any or all hybrids are defined as “Exotic Animals” pursuant to Section 34.8. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(a) *Class Mammalia.*

(1) Order Chiroptera (Any ~~poisonous or venomous biting or injecting~~ bat species of amphibian, arachnid or reptile, including)

(2) Order Artiodactyla, (Hippopotamuses, giraffes, camels, deer) Excluding domestic cattle, swine, sheep, goats, alpaca, and llama.

(3) Order Carnivora.

(A) Family Felidae. (Lions, tigers, cougars, leopards, ocelots, servals) Excluding domestic cats.

(B) Family Canidae (Wolves, coyotes, foxes, jackals) Excluding domestic dogs.

(C) Family Ursidae. (All bears)

(D) Family Mustelidae. (Weasels, skunks, martins, minks) Excluding ferrets.

(E) Family Procyonidae. (Raccoons, coatis)

(F) Family Hyaenidae. (Hyenas)

(G) Family Viverridae (Civets, genets, mongooses)

(4) Order Edentata. (Anteaters, armadillos, sloths)

(5) Order Marsupialia. (Opossums, kangaroos, wallabies, sugar gliders)

(6) Order Perissodactyla. (Rhinoceroses, tapirs) Excluding horses, goats, and mules.

(7) Order Primates. (Lemurs, monkeys, chimpanzees, gorillas)

(8) Order Proboscidae. (Elephants)

(9) Order Rodentia. (Squirrels, beavers, porcupines, prairie dogs) Excluding guinea pigs, rats, mice, gerbils, and hamsters.

(b) *Class Reptilia.*

(1) Order Squamata.

(A) Family Helodermatidae. (Gila Monsters and Mexican beaded lizards)

(B) Family Varaidae. (Any monitor which will normally grow over two feet in length)

(C) Family Iguanidae. (Only green iguanas and rock iguanas, all others allowed)

(D) Family Boidae. (All species whose adult length may exceed eight (8) feet)

(E) Family Colubridae. (Boomslangs and African twig snakes-)

(b) Any snake not indigenous to Wisconsin.

(c) Any snake indigenous to Wisconsin of the following species, which has attained a length of five feet (5') or greater:

(F) Family Elapidae. (Coral snakes, cobras, mambas)

(G) Family Nactricidae. (Only keelback snakes, all others allowed)

(H) Family Viperidae. (Copperheads, cottonmouths, rattlesnakes)

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- 463 (2) Order Crocodilia. (Crocodiles, alligators, caimans, gavials)
- 464 (c) Class Aves.
- 465 (1) ~~Pilot~~ Order Falconiformes. (Eagles, hawks, vultures)
- 466 (2) Order Rheiformes. (Rheas)
- 467 (3) Order Struthioniformes. (Ostriches)
- 468 (4) Order Casuariiformes. (Cassowaries and emus)
- 469 (5) Order Strigiformes. (Owls)
- 470 (d) Class Arachnida.
- 471 (1) Order Scorpiones, Family Buthidae.
- 472 (A) Arabian fat-tailed scorpion – *Androctonus crassicauda*
- 473 (B) Arizona centrurides scorpion – *Centrurides exilicauda*
- 474 (C) Death stalker – *Leiurus quinquestriatus*
- 475 (D) Egyptian yellow scorpion – *Androctonus Amoreuxi*
- 476 (E) Israeli black ~~snake (Elaphe Obsoleta)~~ scorpion – *Hottentotta judaicus*
- 477 (2) ~~Bull snake (Pituophis melanoleucas sayi).~~
- 478 (3) ~~Fox snake (Elaphe eupina eupina).~~
- 479 34.8-2. (F) S.A. giant fat-tailed scorpion – *Parabuthus transvaalicus*
- 480 (G) Sinai desert scorpion – *Androctonus bicolor*
- 481 (H) Yellow desert scorpion – *Androctonus Australia*
- 482 (2) Order Araneae, Family Therididae.
- 483 (A) Argentina red widow spider – *Latrodectus coralinus*
- 484 (B) Brown widow spider – *Latrodectus geometricus*
- 485 (C) Red-black widow – *Lactrodectus hasselti*
- 486 (D) Red widow spider – *Lactrodectus bishop*
- 487 (E) Southern black widow spider – *Lactrodectus mactans*
- 488 (F) Western widow – *Lactrodectus Hesperus*
- 489 (3) Order Araneae, Family Laxoscelidae, Brown recluse spider – *Loxosceles r*
- 490 *eclusa*
- 491 (e) Class Chilopoda.
- 492 (1) Order Scolopendromorpha, Family Scolopendridae.
- 493 (A) Amazon giant banded centipede – *Scolopendra gigantea*
- 494 (B) Arizona tiger centipede – *Scolopendra viridis*
- 495 (C) Florida keys centipede – *Scolopendra alternans*
- 496 (f) Any Federal or State endangered or threatened species.
- 497 34.8-3. This section ~~shall not prohibit~~ does not apply to:
- 498 (a) Individuals who owned, harbored or possessed any of these animals on the date this
- 499 section goes into effect, provided that all such animals shall be registered with the Oneida
- 500 Conservation Department within thirty (30) days after this prohibition goes into effect.
- 501 This exclusion shall continue as long as the owner keeps such animals but does not
- 502 permit the addition of other prohibited animals; or
- 503 (b) Zoological parks and/or sanctuary, educational or medical institution, and specially
- 504 trained entertainment organizations, ~~educational or medical institutions, or~~ who receive a
- 505 person designated by permit from the Oneida Conservation Department ~~from keeping~~



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~~such animal where~~to own, harbor or possess the ~~same is securely and humanely~~  
~~confined animals.~~ The Oneida Conservation Department may issue a permit under this  
section if:

- (1) the animals and animal quarters are kept in a clean and sanitary condition and  
maintained to eliminate objectionable odors; and
- (2) the animals are maintained in quarters so constructed as to prevent their  
escape.

34.8-~~3.~~4. All Oneida Police ~~Officers~~ or ~~Oneida~~ Conservation ~~officer shall~~ Wardens have the  
authority to enforce the provisions of this ~~Article~~section, including, but not limited to, seizing  
any animal which the officer reasonably believes has been taken, employed, used, or possessed  
in violation of this section.

34.8-~~4.~~5. Any animal seized under ~~sec. 34.8-3~~ ~~shall~~must be held by the ~~Oneida~~ Conservation  
~~Officer or turned over to the Brown County or Outagamie County Health~~ Department until that  
animal is identified as to genus and species to ascertain whether the animal is an endangered  
species under sec. 29.415, Wis. Stats. At any time after such identification, the Oneida  
Conservation Department may seek ~~an order from~~ a court ~~for~~ order as to the care, custody and  
control of the animal. The Oneida Conservation Department may also request the defendant to  
post a bond in an amount sufficient to satisfy the costs of holding the animal. If the courts finds  
the animal has been taken, employed, used or possessed in violation of this ~~Article~~Section, the  
cost of holding the animal and any costs incurred in identifying the ~~animal~~animals shall ~~be~~be  
assessed against the defendant.

~~34.8-5.~~34.8-6. If an animal identified as prohibited under this section is released or escapes, the  
owner of the animal shall immediately notify the Oneida Conservation Department. The owner  
of a prohibited animal that is released or escapes is liable for the expenses incurred to recapture  
the animal, and for any property damage or injuries to humans caused by the animal.

~~34.8-7.~~ Anyone found in violation of this ~~article~~section shall forfeit the prohibited animal to the  
~~Oneida~~ Tribe for destruction or disposition as the ~~Oneida~~ Conservation Department deems  
proper. Prior to such forfeiture, the Oneida Conservation Department may direct a transfer of the  
animal to a qualified zoological, educational, or scientific institution or qualified private  
propagator for safekeeping, with costs assessed against the defendant.

~~34.8-6. Penalty. Any person who shall violate any provision of this Article shall forfeit not less~~  
~~than \$5 nor more than \$300. Each violation and each day a violation continues or occurs shall~~  
~~constitute a separate offense. This section shall not preclude the Conservation Department from~~  
~~maintaining any appropriate action to prevent or remove a violation of this chapter.~~

#### **34.9-1. Regulation of Livestock.** ~~Restricted to owner's property.~~

34.9-1. Livestock may only be kept on ~~Tribal~~ land zoned residential; if a conditional use permit  
is received from the Oneida Land Commission, however, not in excess of the following  
limitations:

- (a) One (1) large animal, ~~such as horse, a cow, or pig~~ per one (1) acre. Examples of  
large animals include, but are not limited to horses, cows and pigs.
- (b) One (1) small animal, ~~such as a goat or sheep~~ per one-half (1/2) acre. Examples of  
small animals include, but are not limited to goats and sheep.

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(c) One (1) goat or sheep per recorded lot under one-half (1/2) acre when set back requirements can be met.

~~(d) Ten fowl or rabbits per one-half acre.~~

~~(e) Five fowl or rabbits per recorded lot under one-half acre.~~

34.9-2. ~~Setback requirements.~~

~~(a) The primary dwelling for horses, ponies, cows, or pigs, must be at least 75 feet from the lot line and 100 feet from any neighboring house.~~

~~(b) Primary dwelling for sheep or goats must be at least 50 feet away from any neighboring house.~~

~~(c) Primary dwelling for fowl and rabbits must be at least 35 feet away from any neighboring house.~~

~~(d) Fencing for the keeping of livestock shall not be closer than 75 feet from the front lot line.~~

~~(e) Fencing for any livestock must be constructed in such a manner that animals may not reach legs, neck, wing, or any body part into neighbor's property, or to any shrub, or plant growing on the neighbor's property.~~

34.9-3. Manure. Manure ~~shall~~is not be allowed to accumulate and ~~must~~shall be cleaned up on a regular basis.

~~34.9-4. Penalty. Any persons violating any provisions of Article nine shall be fined not less than \$5 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which violation occurs or continues.~~

~~34.9-5.~~34.9-3. Liability for damage caused~~Damage Caused~~ by ~~livestock.~~Livestock. Any person whose livestock escapes from its normal confined area and becomes at large is responsible for any and all damage to persons and property caused by such livestock while it is away from its normal confined area.

~~34.10-1. Dangerous Animals and Damages Caused by Domestic Animals.~~Damages caused

34.10-1. Dangerous Animals. The following animals are declared dangerous and shall be ordered by Oneida Police Officers or Oneida Conservation Wardens to be securely confined, muzzled and otherwise securely leashed:

(a) any animal which approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation.

(b) any animal which bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal without provocation.

34.10-2. Investigations for Suspected Domestic Animal Bites.

(a) The owner shall notify the Oneida Police Department of a domestic animal bite.

(b) The responding Oneida Police Officer or Oneida Conversation Warden shall:

(1) Ascertain whether the domestic animal is properly licensed and has current vaccinations.

(2) Ensure all information provided is correct. If the domestic animal cannot be located, an outside law enforcement department may be contacted for assistance.

(3) Contact the Environmental, Health and Safety Division to notify them of the domestic animal bite.

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(4) If the animal has current rabies vaccinations, order the owner to:

(A) Quarantine the animal for ten (10) days; and

(B) Present the domestic animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth day.

(5) If the animal does not have current rabies vaccination, order the owner to:

(A) Quarantine the animal for ten (10) days or deliver the animal to an isolation facility at the owner's expense. If a home quarantine is ordered, the owner shall present the domestic animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one day in between the first twenty-four (24) hours and the tenth day; or

(B) Euthanize the animal and send the specimen for analysis at the owner's expense, if the animal has exhibited any signs of rabies.

(c) Upon expiration of a quarantine period, a veterinarian may extend the quarantine period. Upon expiration of all quarantine periods, if the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine.

(d) If the veterinarian certifies that the animal has exhibited any signs of rabies the following shall occur:

(1) If the animal has current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis to be paid for by the Tribe.

(2) If the animal does not have current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis at the owner's expense.

34.10-3. The Oneida Police Department shall order any animal that has been declared dangerous and that commits a second act in violation of 34.10-1(a) or (b) above, to be permanently removed from the Reservation within ten (10) days of a written order to do so. The owner shall notify the Oneida Police Department, in writing, of where the animal was removed to, or if it was euthanized, proof from a veterinarian it was euthanized, and shall notify the new owner, if any, of the previous order(s) declaring the animal dangerous.

34.10-4. ~~(a)~~ Animals which are running game animals or that create an immediate threat to public safety or to Tribal personnel may be dealt with by using reasonable force to contain such animals. Only Oneida Police Officers and Oneida Conservation Wardens may perform this function.

34.10-5. Liability for ~~injury~~ Injury.

~~(1)a~~ First ~~offense~~ Offense. The owner of a domestic animal is liable for the full amount of damages caused by the domestic animal injuring or causing injury to a person, livestock, or property.

~~(2)b~~ Second ~~offense~~ Offense. The owner of a domestic animal is liable for two (2) times the full amount of damages caused by the domestic animal injuring or causing injury to a person, livestock or property if the owner was notified or knew ~~know~~ that the domestic animal previously injured or caused injury to person, livestock, or property.

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~~(b) Penalties imposed on owner of domestic animal causing damage in addition to liability for damages.~~

~~(1) First offense. The owner of domestic animal shall forfeit not less than \$25 nor more than \$100 if the domestic animal injures or causes injury to a person, livestock, property, deer, game birds, or the nest or eggs of game birds.~~

~~(2) Second offense. The owner of a domestic animal shall forfeit not less than \$75 nor more than \$500 if the domestic animal injures or causes injury to a person, livestock, property, game bird, or the nests or eggs of game birds, if the owner was notified or know that the domestic animal previously injured or caused injury to a person, livestock, property, deer, game bird, or the nests or eggs of game birds.~~

#### 34.10-2. ~~Investigations for suspected dog bites.~~

~~(a) The dog owner shall notify the~~ 6. *Investigation of Other Animals.* An Oneida Police Department of a dog bite and provide

~~(1) Name, address, and phone number of the victim(s).~~

~~(2) Name, address, and phone number of the owner.~~

~~(3) Date, time, and location of the incident.~~

~~(4) Details of the incident including whether it was provoked attack.~~

~~(b) The~~ Officer or Oneida Police Department shall in all cases:

~~(1) Contract the owner of the dog.~~

~~(2) Ascertain whether the dog has proper license and current vaccinations.~~

~~(3) Ensure all information provided is correct and contact the Conservation Department and order that the dog be observed. If the dog cannot be located, an appropriate non tribal law enforcement department may be contacted for assistance.~~

~~(c) Subsequent to the owner being contracted and the dog having been observed by the Conservation Department, the Conservation Department shall request the Oneida Police Department to do the following:~~

~~(1) If the dog has current rabies vaccination, order the owner to chain the dog for ten days and allow two observations by the conservation Department. At the end of the ten days, the Conservation Department may:~~

~~(A) End observation~~

~~(B) Order the dog to be sacrificed and send the specimen to the State Laboratory of Hygiene for analysis to be paid for from the licensing fund. This may be done before the ten day observation period ends.~~

~~(2) If the dog had not had a rabies vaccination, the Conservation Department may order:~~

~~(A) The dog to be sacrificed and the specimen sent to the State Laboratory of Hygiene for analysis at the owner's expense. The Conservation Department will prepare and obtain a veterinarian's authorization.~~

~~(B) A twenty one day period of direct observation by a licensed veterinarian under the control of the veterinarian at the owner's expense. At the end of the observation period the Conservation Department may:~~

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- (i) ~~End observation and release the dog to owner; or~~  
(ii) ~~Order the dog to be sacrificed and send the specimen to the State Laboratory of Hygiene for analysis at the owner's expense. This may be ordered to the end of the twenty one day period if danger to humans or other animal is apparent.~~

~~(C) Stray dogs shall be referred to the Oneida Police Department.~~

~~34.10-3. Investigation of other animals. A conservation Officer~~Warden may order killed or may kill an animal other than a dog if the officer has reason to believe that the animal is infected with rabies and has or may have bitten a person.

### **34.11. Violations, Enforcement and Appeals**

34.11-1. Fines for the violation of this Law or for violating orders issued under this Law will be established by the Oneida Police Department and the Oneida Conservation Department and approved by the Oneida Business Committee. These fines are in addition to any liability for damages that an owner of a domestic animal or livestock is responsible for under 34.10. A separate offense will be deemed committed on each day during or on which a violation occurs or continues. Any order issued pursuant to this Law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's expense.

34.11-2. The Oneida Police Department , by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

34.11-3. Actions taken and fines issued under this Law may be appealed to the Judiciary in accordance with the Judiciary law and any applicable rules of procedure.

End.

~~34.10-4. Penalties. An owner who refuses to comply with an order issued under this article to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with conditions of an order that an animal be quarantined shall be fined not less than \$50 nor more than \$1000.~~

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Adopted - BC-3-13-96-B  
Amended – BC-06-22-11-G



**Chapter 34**  
**DOMESTIC ANIMALS**  
**Kátseʔna Olihwaʔke**  
matters concerning the pet animals

34.1. Purpose and Policy  
34.2. Adoption, Amendment, Conflicts  
34.3. Definitions  
34.4. Jurisdiction  
34.5. Licensing, Authority, Investigation, Responsibilities and Enforcement Powers

34.6. Licensing and Immunization Requirements for Dogs and Cats  
34.7. Treatment of Animals  
34.8. Prohibited Animals  
34.9. Regulation of Livestock  
34.10. Damages Caused by Domestic Animals

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**34.1. Purpose and Policy**

34.1-1. The purpose of this Law is to:

- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) set minimum standards for the treatment of animals;
- (c) prohibit certain species of animals from being brought onto the Reservation;
- (d) regulate the keeping of livestock on the Reservation; and
- (e) establish consequences for damages caused by domestic animals.

34.1-2. It is the policy of this Law to set out requirements for licensing domestic animals, as well as to regulate what kinds of animals may be kept as domestic animals. It is also the policy of this Law to set out the structure for assessing and collecting license fees and fines under this Law, and for investigating and enforcing violations of this Law.

**34.2. Adoption, Amendment, Conflicts**

34.2-1. This Law was adopted by Oneida Business Committee Resolution BC-03-13-96-B and amended by Resolutions BC-06-22-11-G and \_\_\_\_\_.

34.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

34.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

34.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control. Provided that, nothing in this Law is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

34.2-5. This Law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**34.3. Definitions**

34.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “District quarantine” means a rabid or otherwise diseased domestic animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are rounded up and tested for rabies or other diseases.

(b) “Disturbance” means excessive barking, running loose, biting or engaging in threatening behavior.

(c) “Domestic animals” means dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids, and all other

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animals commonly owned as household pets.

(d) “Livestock” means any equine (i.e. horse, donkey, ect.), bovine (i.e. cow, steer, heffer, ect.), sheep, goat, pig, or domestic fowl, including game fowl raised in captivity.

(e) “Nuisance dog” means a dog whose actions results in two (2) or more verified disturbances to the owner’s neighbors.

(f) “Owner” means any person who owns, harbors, keeps or controls an animal.

#### **34.4. Jurisdiction**

34.4-1. *Personal Jurisdiction.* This Law applies to:

(a) All Oneida Tribal members, Tribal entities, Tribal corporations and members of other federally recognized tribes.

(b) Individuals and businesses leasing, occupying or otherwise using Tribal fee land and all Tribal trust lands.

(c) Individuals who have consented to the jurisdiction of the Tribe or as otherwise consistent with federal law. For purposes of this subsection, an individual will have consented to the jurisdiction of the Tribe:

(1) By entering into a consensual relationship with the Tribe, Tribal entities Tribal corporations, or Tribal members, including but not limited to contracts or other agreements; or

(2) By other facts which manifest an intent to consent to the authority of the Tribe, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.

34.4-2. *Territorial Jurisdiction.* This Law extends to all land within the exterior boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, any lands added thereto pursuant to federal law and all lands held in trust for the Tribe within the State of Wisconsin.

#### **34.5. Licensing, Authority, Investigation, Responsibilities and Enforcement Powers**

34.5-1. *Oneida Police Department.* Oneida Police Officers and Conversation Wardens shall investigate complaints involving domestic animals and have the authority to levy and collect fines against those who violate this Law consistent with the penalty provisions as set out in accordance with this Law, and are authorized to seize animals suspected to be mistreated, rabid or otherwise in danger or dangerous. An officer or warden may, as a last resort, in a humane manner and in a manner that avoids damage to the animal’s head, kill an animal suspected to be rabid or dangerous.

34.5-2. *Oneida Conservation Department* The Oneida Conservation Department shall issue licenses and collect fees for licenses issued under this Law.

34.5-3. All revenue collected for license fees and fines under this Law shall go into the general fund.

#### **34.6. Requirements for Dogs and Cats**

34.6-1. *License Required.* A license is required for the keeping of any dog or cat over five (5) months of age.

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(a) Upon payment of the required license fee and upon presentation of evidence that the animal is currently immunized against rabies, the Oneida Conservation Department shall issue to the owner a license and tag for the animal.

(b) The owner shall securely attach the tag to a collar and a collar with the tag attached shall be kept on the animal for which the license is issued at all times. This requirement does not apply to a dog while hunting, to a dog or cat securely confined in a fenced area or to a dog while actively involved in herding or controlling livestock if the dog is under control of its owner.

(c) The license year commences on January 1<sup>st</sup> and ends December 31<sup>st</sup>.

(d) The owner of a dog or cat more than five (5) months of age on January 1<sup>st</sup> of any year or five (5) months of age within the license year shall annually, on or before the date the animal becomes five (5) months of age, pay the license fee and obtain a license.

(e) Licensing fees will be established by the Oneida Conservation Department and approved by the Oneida Business Committee.

34.6-2. *Rabies Vaccinations Required.* Rabies vaccination is required for any dog or cat five (5) months of age or older. The owner of a dog or cat shall have the animal vaccinated against rabies as directed by a veterinarian.

34.6-3. *District Quarantine.*

(a) If a district is quarantined for rabies, all dogs and cats within the district shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is a public nuisance and may be impounded. All Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the enforcement of the quarantine.

(b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence is exempt from the district quarantine provisions of this section.

34.6-4. *Dogs and Cats Running at Large.* It is unlawful for any person owning or possessing any dog or cat to permit the animal to be at any place except upon the premises of the owner, unless it is on a leash and under control of a person physically able to control it.

(a) Any nuisance dog may be picked up by Oneida Police Officers or Oneida Conservation Wardens.

(b) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida Conservation Department.

(c) Whenever any Oneida Police Officer, Oneida Conservation Warden, or other person designated by the Chief of Police finds any dog or cat running at large, the officer/warden shall, if possible, pick up, and impound such animal in such a place as the Oneida Chief of Police may direct.

(d) Whenever any impounded animal bears an identification mark such as a collar with identification tags or license tag, the owner shall be notified immediately.

34.6-5. *Limit on Number of Dogs and Cats.* Except as provided in 34.6-8, no person may harbor or possess any combination of more than five (5) dogs and cats (for example, three (3) dogs and two (2) cats or three (3) cats and two (2) dogs), however, no more than three (3) dogs or three (3) cats will be allowed in a single household. If more than one (1) family resides on any lot, the party exceeding the limitation imposed by this section is in violation thereof.

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34.6-6. *Exception to Limit of Dogs and Cats.* The limit on the number of dogs and cats a person may own, harbor or possess does not apply to those persons who:

- (a) owned, harbored or possessed more than three (3) dogs and/or three (3) cats and/or any combination of more than five (5) dogs and cats on the date he or she became subject to this Law or the date this limit goes into effect, whichever occurs later, provided that all of such animals are properly licensed within five (5) months after this limit goes into effect. This exclusion shall continue as long as the owner keeps such animals but does not permit the licensing of additional dogs or cats which exceed the limits in 34.6-5; or
- (b) keep a litter of pups or kittens or a portion of a litter for a period not exceeding five (5) months from birth; or
- (c) have a household on a farm where “farm” means any parcel of land which is used in the raising of agricultural products, livestock, poultry, aquaculture, and/or fish; or
- (d) are exempt from the limits based on applicable zoning regulations or, provided all applicable zoning requirements are complied with, receive a permit from the Oneida Land Commission to harbor or possess dogs and/or cats in excess of the limits provided in 34.6-5.

#### **34.7. Treatment of Animals**

34.7-1. No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient daily supply of food and water.

- (a) The amount of food must be sufficient to maintain the animal in good health.
- (b) If potable water is not accessible to the animal at all times, it must be provided in sufficient quantity to maintain the animal in good health.

34.7-2. *Shelter.*

(a) Minimum indoor standards of shelter:

- (1) The ambient temperature shall be compatible with the health of the animal.
- (2) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(b) Minimum outdoor standards of shelter:

- (1) Shelter from Sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. “Caged” does not include farm fencing used to confine farm animals.
- (2) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
- (3) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a weather appropriate shelter of suitable size to accommodate the dog shall be provided.

(c) Space Standards. Minimum space requirements for both indoor and outdoor enclosures:

- (1) The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

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(2) Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(A) Specifically, dog kennels must meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel:

DOG SIZE (LBS)	REQUIRED BASE KENNEL SPACE	REQUIRED ADDITIONAL KENNEL SPACE PER ADDITIONAL DOG
1-35 lbs	80 Sq. Ft.	12 Sq. Ft.
36-75 lbs	100 Sq. Ft.	18 Sq. Ft.
76 lbs or more	120 Sq. Ft.	24 Sq. Ft.

(d) Sanitation Standards. Minimum standards of sanitation for both indoor and outdoor enclosures require excreta to be removed within twenty-four (24) hours of its deposit. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

34.7-3. *Mistreatment of Animals.* No person may treat any animal in a manner which causes unnecessary and excessive pain or suffering or unjustifiable injury or death. This section does not apply to:

(a) normal and accepted veterinary practices; or

(b) teaching, research or experimentation conducted at a facility regulated under federal or applicable state law.

### 34.8. Prohibited Animals

34.8-1. *Prohibited Animals.* Except as provided in 34.8-2, no person may bring into, keep, harbor, maintain, offer for sale or barter,, act as a custodian, have custody or control of, or release to the wild on the Reservation and Exotic Animal.

34.8-2. *Exotic Animals.* The following orders and families, whether bred in the wild or in captivity, and any or all hybrids are defined as “Exotic Animals” pursuant to Section 34.8. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(a) *Class Mammalia.*

(1) Order Chiroptera (Any bat species)

(2) Order Artiodactyla, (Hippopotamuses, giraffes, camels, deer) Excluding domestic cattle, swine, sheep, goats, alpaca, and llama.

(3) Order Carnivora.

(A) Family Felidae. (Lions, tigers, cougars, leopards, ocelots, servals) Excluding domestic cats.

(B) Family Canidae (Wolves, coyotes, foxes, jackals) Excluding domestic dogs.

(C) Family Ursidae. (All bears)



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- 205 (D) Family Mustelidae. (Weasels, skunks, martins, minks) Excluding  
206 ferrets.
- 207 (E) Family Procyonidae. (Raccoons, coatis)
- 208 (F) Family Hyaenidae. (Hyenas)
- 209 (G) Family Viverridae (Civets, genets, mongooses)
- 210 (4) Order Edentatia. (Anteaters, armadillos, sloths)
- 211 (5) Order Marsupialia. (Opossums, kangaroos, wallabies, sugar gliders)
- 212 (6) Order Perissodactyla. (Rhinoceroses, tapirs) Excluding horses, goats, and  
213 mules.
- 214 (7) Order Primates. (Lemurs, monkeys, chimpanzees, gorillas)
- 215 (8) Order Proboscidae. (Elephants)
- 216 (9) Order Rodentia. (Squirrels, beavers, porcupines, prairie dogs) Excluding  
217 guinea pigs, rats, mice, gerbils, and hamsters.
- 218 (b) *Class Reptilia*.
- 219 (1) Order Squamata.
- 220 (A) Family Helodermatidae. (Gila Monsters and Mexican beaded lizards)
- 221 (B) Family Varaidae. (Any monitor which will normally grow over two  
222 feet in length)
- 223 (C) Family Iguanidae. (Only green iguanas and rock iguanas, all others  
224 allowed)
- 225 (D) Family Boidae. (All species whose adult length may exceed eight (8)  
226 feet)
- 227 (E) Family Colubridae. (Boomslangs and African twig snakes)
- 228 (F) Family Elapidae. (Coral snakes, cobras, mambas)
- 229 (G) Family Natricidae. (Only keelback snakes, all others allowed)
- 230 (H) Family Viperidae. (Copperheads, cottonmouths, rattlesnakes)
- 231 (2) Order Crocodilia. (Crocodiles, alligators, caimans, gavials)
- 232 (c) *Class Aves*.
- 233 (1) Order Falconiformes. (Eagles, hawks, vultures)
- 234 (2) Order Rheiformes. (Rheas)
- 235 (3) Order Struthioniformes. (Ostriches)
- 236 (4) Order Casuariiformes. (Cassowaries and emus)
- 237 (5) Order Strigiformes. (Owls)
- 238 (d) *Class Arachnida*.
- 239 (1) Order Scorpiones, Family Buthidae.
- 240 (A) Arabian fat-tailed scorpion – *Androctonus crassicauda*
- 241 (B) Arizona centruroides scorpion – *Centruroides exilicauda*
- 242 (C) Death stalker – *Leiurus quinquestriatus*
- 243 (D) Egyptian yellow scorpion – *Androctonus Amoreuxi*
- 244 (E) Israeli black scorpion – *Hottentotta judaicus*
- 245 (F) S.A. giant fat-tailed scorpion – *Parabuthus transvaalicus*
- 246 (G) Sinai desert scorpion – *Androctonus bicolor*
- 247 (H) Yellow desert scorpion – *Androctonus Australia*

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- 248 (2) Order Araneae, Family Therididae.
- 249 (A) Argentina red widow spider – *Latrodectus coralinus*
- 250 (B) Brown widow spider – *Latrodectus geometricus*
- 251 (C) Red-black widow – *Lactrodectus hasselti*
- 252 (D) Red widow spider – *Lactrodectus bishop*
- 253 (E) Southern black widow spider – *Lactrodectus mactans*
- 254 (F) Western widow – *Lactrodectus Hesperus*
- 255 (3) Order Araneae, Family Laxoscelidae, Brown recluse spider – *Loxosceles r*
- 256 *eclusa*
- 257 (e) *Class Chilopoda*.
- 258 (1) Order Scolopendromorpha, Family Scolopendridae.
- 259 (A) Amazon giant banded centipede – *Scolopendra gigantea*
- 260 (B) Arizona tiger centipede – *Scolopendra viridis*
- 261 (C) Florida keys centipede – *Solopendra alternans*
- 262 (f) Any Federal or State endangered or threatened species.
- 263 34.8-3. This section does not apply to:
- 264 (a) Individuals who owned, harbored or possessed any of these animals on the date this
- 265 section goes into effect, provided that all such animals shall be registered with the Oneida
- 266 Conservation Department within thirty (30) days after this prohibition goes into effect.
- 267 This exclusion shall continue as long as the owner keeps such animals but does not
- 268 permit the addition of other prohibited animals; or
- 269 (b) Zoological parks and/or sanctuary, educational or medical institution, and specially
- 270 trained entertainment organizations who receive a permit from the Oneida Conservation
- 271 Department to own, harbor or possess the animals. The Oneida Conservation Department
- 272 may issue a permit under this section if:
- 273 (1) the animals and animal quarters are kept in a clean and sanitary condition and
- 274 maintained to eliminate objectionable odors; and
- 275 (2) the animals are maintained in quarters so constructed as to prevent their
- 276 escape.
- 277 34.8-4. All Oneida Police Officers or Oneida Conservation Wardens have the authority to
- 278 enforce the provisions of this section, including, but not limited to, seizing any animal which the
- 279 officer reasonably believes has been taken, employed, used, or possessed in violation of this
- 280 section.
- 281 34.8-5. Any animal seized under 34.8-3 must be held by the Oneida Conservation Department
- 282 until that animal is identified as to genus and species to ascertain whether the animal is an
- 283 endangered species under sec. 29.415, Wis. Stats. At any time after such identification, the
- 284 Oneida Conservation Department may seek a court order as to the care, custody and control of
- 285 the animal. The Oneida Conservation Department may also request the defendant to post a bond
- 286 in an amount sufficient to satisfy the costs of holding the animal. If the courts finds the animal
- 287 has been taken, employed, used or possessed in violation of this Section, the cost of holding the
- 288 animal and any costs incurred in identifying the animals shall by assessed against the defendant.
- 289 34.8-6. If an animal identified as prohibited under this section is released or escapes, the owner
- 290 of the animal shall immediately notify the Oneida Conservation Department. The owner of a

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prohibited animal that is released or escapes is liable for the expenses incurred to recapture the animal, and for any property damage or injuries to humans caused by the animal.

34.8-7. Anyone found in violation of this section shall forfeit the prohibited animal to the Tribe for destruction or disposition as the Oneida Conservation Department deems proper. Prior to such forfeiture, the Oneida Conservation Department may direct a transfer of the animal to a qualified zoological, educational or scientific institution or qualified private propagator for safekeeping, with costs assessed against the defendant.

### **34.9. Regulation of Livestock**

34.9-1. Livestock may only be kept on land zoned residential if a conditional use permit is received from the Oneida Land Commission, however, not in excess of the following limitations:

- (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not limited to horses, cows and pigs.
- (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but are not limited to goats and sheep.
- (c) One (1) goat or sheep per recorded lot under one-half (½) acre when set back requirements can be met.

34.9-2. *Manure.* Manure is not allowed to accumulate and shall be cleaned up on a regular basis.

34.9-3. *Liability for Damage Caused by Livestock.* Any person whose livestock escapes from its normal confined area and becomes at large is responsible for any and all damage to persons and property caused by such livestock while it is away from its normal confined area.

### **34.10. Dangerous Animals and Damages Caused by Animals**

34.10-1. *Dangerous Animals.* The following animals are declared dangerous and shall be ordered by Oneida Police Officers or Oneida Conservation Wardens to be securely confined, muzzled and otherwise securely leashed:

- (a) any animal which approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation.
- (b) any animal which bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal without provocation.

34.10-2. *Investigations for Suspected Domestic Animal Bites.*

- (a) The owner shall notify the Oneida Police Department of a domestic animal bite.
- (b) The responding Oneida Police Officer or Oneida Conversation Warden shall:
  - (1) Ascertain whether the domestic animal is properly licensed and has current vaccinations.
  - (2) Ensure all information provided is correct. If the domestic animal cannot be located, an outside law enforcement department may be contacted for assistance.
  - (3) Contact the Environmental, Health and Safety Division to notify them of the domestic animal bite.
  - (4) If the animal has current rabies vaccinations, order the owner to:
    - (A) Quarantine the animal for ten (10) days; and

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- 334 (B) Present the domestic animal for examination by a veterinarian within  
335 twenty-four (24) hours of the bite, on the last day of quarantine and on one  
336 (1) day in between the first twenty-four (24) hours and the tenth day.
- 337 (5) If the animal does not have current rabies vaccination, order the owner to:
- 338 (A) Quarantine the animal for ten (10) days or deliver the animal to an  
339 isolation facility at the owner's expense. If a home quarantine is ordered,  
340 the owner shall present the domestic animal for examination by a  
341 veterinarian within twenty-four (24) hours of the bite, on the last day of  
342 quarantine and on one day in between the first twenty-four (24) hours and  
343 the tenth day; or
- 344 (B) Euthanize the animal and send the specimen for analysis at the  
345 owner's expense, if the animal has exhibited any signs of rabies.
- 346 (c) Upon expiration of a quarantine period, a veterinarian may extend the quarantine  
347 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the  
348 animal has not exhibited any signs of rabies, the animal may be released from quarantine.
- 349 (d) If the veterinarian certifies that the animal has exhibited any signs of rabies the  
350 following shall occur:
- 351 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or  
352 Oneida Conservation Warden may order the animal to be euthanized and send the  
353 specimen for analysis to be paid for by the Tribe.
- 354 (2) If the animal does not have current rabies vaccinations, the Oneida Police  
355 Officer or Oneida Conservation Warden may order the animal to be euthanized  
356 and send the specimen for analysis at the owner's expense.
- 357 34.10-3. The Oneida Police Department shall order any animal that has been declared dangerous  
358 and that commits a second act in violation of 34.10-1(a) or (b) above, to be permanently removed  
359 from the Reservation within ten (10) days of a written order to do so. The owner shall notify the  
360 Oneida Police Department, in writing, of where the animal was removed to, or if it was  
361 euthanized, proof from a veterinarian it was euthanized, and shall notify the new owner, if any,  
362 of the previous order(s) declaring the animal dangerous.
- 363 34.10-4. Animals which are running game animals or that create an immediate threat to public  
364 safety or to Tribal personnel may be dealt with by using reasonable force to contain such  
365 animals. Only Oneida Police Officers and Oneida Conservation Wardens may perform this  
366 function.
- 367 34.10-5. *Liability for Injury.*
- 368 (a) First Offense. The owner of a domestic animal is liable for the full amount of  
369 damages caused by the domestic animal injuring or causing injury to a person, livestock  
370 or property.
- 371 (b) Second Offense. The owner of a domestic animal is liable for two (2) times the full  
372 amount of damages caused by the domestic animal injuring or causing injury to a person,  
373 livestock or property if the owner was notified or know that the domestic animal  
374 previously injured or caused injury to person, livestock, or property.
- 375 34.10-6. *Investigation of Other Animals.* An Oneida Police Officer or Oneida Conservation  
376 Warden may order killed or may kill an animal other than a dog if the officer has reason to

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believe that the animal is infected with rabies and has or may have bitten a person.

**34.11. Violations, Enforcement and Appeals**

34.11-1. Fines for the violation of this Law or for violating orders issued under this Law will be established by the Oneida Police Department and the Oneida Conservation Department and approved by the Oneida Business Committee. These fines are in addition to any liability for damages that an owner of a domestic animal or livestock is responsible for under 34.10. A separate offense will be deemed committed on each day during or on which a violation occurs or continues. Any order issued pursuant to this Law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's expense.

34.11-2. The Oneida Police Department , by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

34.11-3. Actions taken and fines issued under this Law may be appealed to the Judiciary in accordance with the Judiciary law and any applicable rules of procedure.

*End.*

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Adopted - BC-3-13-96-B  
Amended – BC-06-22-11-G



# Legislative Operating Committee



## Agenda Request Form

- 1) Request Date: 9/16/2015
- 2) Contact Person(s): Brandon Stevens, LOC Chairperson Dept: LOC  
 Phone Number: 469-4378 Email: bstevens@oneidanation.org
- 3) Agenda Title: Legislative Procedures Act (LPA) Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee  
Modify language use in the LPA to conform to the new LRO Drafting SOPs because  
provisions of this law are required to be included in all laws. Other laws will be amended  
as they are naturally submitted to the LOC for amendments/review. Also, include  
provisions for how policies are adopted.

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

- |          |          |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please List any laws, ordinances or resolution that might be affected:  
All laws will require revisions of Sections 2 and 3, which will be done as they are brought to the LOC.
- 6) Please List all other departments or person(s) you have brought your concern to:  
Oneida Law Office
- 7) Do you consider this request urgent? ☐ Yes ☒ No  
 If yes, please indicate why: \_\_\_\_\_

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

## LOC Priorities with Timelines - Updated 9/11/15

<b>GTC DIRECTIVES</b>	<b>Added to AFL</b>	<b>Next Steps</b>	<b>TIMELINE</b>
<b>Budget Management &amp; Control Law</b>	9/17/14	Continue to draft the Law	Draft to LOC by December 2016
<b>GTC Meetings Law</b>	9/17/14	Deferred to LOC for changes & to hold public meetings	Draft to LOC by 11/18/15, Public Meeting by 12/17/15
<b>Petition: Child Care Department Complaint Policy</b>	9/17/14	Deferred to LRO for redrafting	Not known – Michelle Mays has this item.
<b>OBC DIRECTIVES</b>	<b>Added to AFL</b>	<b>Next Steps</b>	<b>TIMELINE</b>
<b>Back Pay Policy Amendments</b>	6/17/15	Development and Drafting	Draft to LOC by 10/21/15 Public Meeting by 11/19/15
<b>Comprehensive Policy Amendments</b>	9/17/14	Deferred for analyses	Legislative analysis to LOC by 10/21/15
<b>Furlough Policy</b>	10/15/14	LOC Review/Forward to OBC	LOC to review at 9/16/15 meeting, may forward to OBC.
<b>Higher Education</b>	10/15/14	Bring back draft and analysis when ready.	Legislative analysis to 9/16 LOC meeting; 10/29/15 Public meeting, public comments to LOC by 11/18
<b>Flag Code</b>	5/6/15	Public Meeting, Public Comment Review	Public comments to LOC by 11/18/15

<b>GTC PETITIONS</b>	<b>OBC Receives, Directs Analyses</b>	<b>Added to AFL</b>	<b>Analysis Submitted to OBC</b>	<b>OBC Accepts Analysis</b>	<b>Presented to GTC</b>
<b>Constitution Amendments re Membership</b>	8/13/14		10/15/14	10/22/14	
<b>Cornelius-4 Resolutions<sup>1</sup></b>	5/13/15 <sup>2</sup>	5/20/15	8/5/15	8/19/15	
<b>Genskow- 3 Resolutions<sup>3</sup></b>	4/22/15	5/6/15	6/17/15	6/24/15	
<b>Genskow- 4 Resolutions<sup>4</sup></b>	12/10/14	1/21/15	2/4/15	2/11/15	
<b>Genskow-6 Resolutions<sup>5</sup></b>	2/25/15	4/3/15	4/3/15	4/22/15	
<b>Judiciary Support System</b>	10/8/14	10/15/14	11/19/14	11/26/14	Tabled - 6/1/15 GTC
<b>Powless-Per Capita Payments</b>	6/24/15	7/1/15	8/5/15	8/17/15	

<sup>1</sup> Investigative 7 Gens, 7 Gens Return Money, Freedom of Press, Impose Tax on OBC

<sup>2</sup> Resolutions not received immediately, direction was re-issued 8/17/15

<sup>3</sup> OBC Accountability, Repeal Judiciary, Open Records Law

<sup>4</sup> Budget Cuts, Swimming Lessons, GTC Directives and Home Repairs for Elders

<sup>5</sup> GTC Meetings, Fee to Trust Applications, Elder Services Program, Recording OBC Sub-Committee meetings, Chain of Command System, Unclaimed Per Capita Payments

## LOC Priorities with Timelines - Updated 9/11/15

<b>PRIORITIES SET BY THE LOC</b>	<b>Added to AFL</b>	<b>Next Steps</b>	<b>TIMELINE</b>
<b>Children's Code</b>	9/17/14	<i>Development and Drafting</i>	Work Meetings Scheduled in 10/15 and 11/15. Draft to LOC 12/16/15, to set public meeting date of 1/21/15
<b>Code of Ethics Law Amendments</b>	9/17/14	<i>Development and Drafting</i>	Draft to LOC by 11/4/15
<b>Compliance &amp; Enforcement Law</b>	8/19/15	<i>Development and Drafting</i>	Completed by 8/2016
<b>Employment Law</b>	9/17/14	<i>Waiting on HRD to send relevant rules</i>	Draft to LOC by 10/21/15
<b>Tribal Hearing Bodies/ Administrative Court</b>	9/17/14	<i>Development and Drafting</i>	Work Meetings in 10/2015 Draft to LOC by 11/18/15, to set Public Meeting date of 12/17/15
<b>Membership Ordinance</b>	9/17/14	<i>On hold while the Sustain Oneida initiative gathers information</i>	
<b>Removal Law Amendments</b>	12/17/14	<i>Final Draft &amp; Analysis to be submitted for LOC review.</i>	LOC to consider forwarding for adoption at 9/16/15 meeting.
<b>Rulemaking Law</b>	9/17/14	<i>Legislative &amp; fiscal analysis due within 60 days</i>	Analysis Due to LOC 10/21/15, estimated Public Meeting date of 12/3/15
<b>Sanctions and Penalties Law</b>	10/15/14	<i>Development and Drafting</i>	Draft to LOC by 11/4/15
<b>Tribal Secured Transactions Law</b>	8/19/15	<i>Development and Drafting</i>	Estimated complete by 08/16
<b>REMAINING ITEMS ON AFL<sup>6</sup> (NON-PRIORITY)</b>	<b>Added to AFL</b>	<b>Next Steps</b>	<b>TIMELINE</b>
<b>Agriculture Law</b>	10/1/14	Development and Drafting	Draft to LOC by of 12/16/15
<b>Audit Committee Bylaws</b>	9/17/14	Awaiting Audit Committee review of draft	Draft to LOC by 10/7/15
<b>Audit Law Amendments</b>	9/17/14	Development and Drafting	Draft to LOC by 10/7/15
<b>Capping Damages and Awards from the Judicial System</b>	9/17/14	Development and Drafting	Draft to LOC by 11/4/15
<b>OBC Meetings Law</b>	9/2/15	Development and Drafting	Draft to LOC by 12/02/15
<b>Cemetery Law Amendments</b>	8/5/15	Development and Drafting	Draft to LOC by 10/7/15
<b>Community Support Fund Policy Amendments</b>	7/1/15	Deferred for analyses on 9/2/15	Complete by 1/2015
<b>Election Board Bylaws Amendments</b>	3/18/15	Deferred back to the sponsor until new Election Board officers are sworn in.	Draft to LOC by 11/4/15
<b>Election Law (Permanent Amendments)</b>	9/17/14	Development and Drafting	Anticipate bringing draft to LOC meeting on 12/2/15
<b>Employee Advocacy Law</b>	9/17/14	Development and Drafting	Draft to LOC by 3/16/15
<b>Environmental Health Safety Law</b>	12/17/14	Development and Drafting	Waiting for Rulemaking Law to be completed
<b>Family Court Amendments: Bench Warrants</b>	9/17/14	Waiting for responsible departments to submit input for implementation.	Draft to LOC by 11/4/15

<sup>6</sup> Leasing Law and ONGO not included – those items have already been adopted by the OBC but are awaiting Dept. of Interior/NIGC approval.

## LOC Priorities with Timelines - Updated 9/11/15

<b>Fitness For Duty Policy</b>	9/17/14	Development and Drafting	Draft to LOC by 11/18/15
<b>Garnishment Ordinance Amendments</b>	8/5/15	Development and Drafting	Leg. Analysis to LOC by 11/18/15, Estimated Public Meeting Date of 1/21/16
<b>Guardianship Law</b>	9/17/14	Development and Drafting	Draft to LOC by 1/27/15
<b>Hunting, Fishing and Trapping Law Amendments</b>	1/21/15	Development and Drafting	Draft to LOC by 10/21/15
<b>Industrial Hemp Law</b>	3/18/15	Consideration of supporting AB 215 was held in executive session, no further direction was given	Draft to LOC by 11/18/15
<b>Law Enforcement Ordinance: Conservation Officers</b>	9/17/14	Development and Drafting	Amendments completed by May 2015
<b>Per Capita Law Amendments</b>	7/15/15	Auto 60-day return on 9/16/15	
<b>Personnel Commission Bylaws Amendments</b>	3/18/15	Final draft & Analysis being prepared	Draft to LOC 11/4/15
<b>Public Use of Tribal Land (Permanent Amendments)</b>	7/1/15	Development and Drafting	Requesting a fiscal analysis and public meeting date for 10/15/15, with comments reviewed by LOC by 11/4/15
<b>Rules of Civil Procedure Amendments</b>	7/15/15	Auto 60-day return on 9/16/15	Draft to LOC by 12/16/15
<b>Tribally-Owned Business Organization Code</b>	9/17/14	Development and Drafting	Draft to LOC by 1/20/15
<b>Vehicle Driver Certification and Fleet Management</b>	9/17/14	Public Comment Review and final revisions	Draft to LOC by 10/7/15
<b>Violence Against Women Act</b>	3/18/15	Development and Drafting	Research to LOC by 11/18/15
<b>Whistleblower Law</b>	9/17/14	Development and Drafting	Draft to LOC by March 2015
<b>Workplace Violence Policy</b>	9/17/14	Development and Drafting	Draft to LOC by April 2015

<b>CURRENT EMERGENCY LEGISLATION</b>	<b>Added to AFL</b>	<b>Emergency Adoption</b>	<b>Emergency Extended</b>	<b>Expiration Date</b>
<b>APA Emergency Amendments</b> The APA was repealed but then an amended version was adopted on an emergency basis to provide hearing procedures for Tribal hearing bodies.	n/a	2/25/15	8/19/15	3/1/16
<b>Election Law Emergency Amendments</b> Emergency changes to lower the voting age to 18 in accordance with Constitutional amendments. Additional permanent changes are being processed.	9/17/14	6/28/15		12/28/15 unless extended
<b>Public Use of Tribal Land Emergency Amendments</b> Amendments allow ERB to prescribe permissible and prohibited uses for tribal lands with designated access, to allow for enforcement.	7/1/15	7/8/15		1/8/16 unless extended

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

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug 30	31	Sep 1	2	3	4	5
Aug 30 - Sep 5			9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
	6	7	8	9	10	11
Sep 6 - 12		Labor Day Holiday	BC Meeting (BCCR)			GTC Meeting (Radisson)
	13	14	15	16	17	18
Sep 13 - 19			9:00am 2:00pm LOC Meeting (BCCR) - LOC_Calendar			
	20	21	22	23	24	25
Sep 20 - 26		6:00pm 10:00pm GTC Budget Mtg (Radisson)	BC Meeting (BCCR)			
	27	28	29	30	Oct 1	2
Sep 27 - Oct 3						



October 2015													
October 2015							November 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
4	5	6	7	8	9	10	1	2	3	4	5	6	7
11	12	13	14	15	16	17	8	9	10	11	12	13	14
18	19	20	21	22	23	24	15	16	17	18	19	20	21
25	26	27	28	29	30	31	22	23	24	25	26	27	28
Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday	
Sep 27	28	29	30	Oct 1	2	3							
Sep 27 - Oct 3													
4	5	6	7	8	9	10							
Oct 4 - 10													
11	12	13	14	15	16	17							
Oct 11 - 17													
18	19	20	21	22	23	24							
Oct 18 - 24													
25	26	27	28	29	30	31							
Oct 25 - 31													
LOC_Calendar													