

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-2nd Floor Norbert Hill Center
October 21, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. October 7, 2015 LOC Meeting Minutes
- III. Current Business**
 - 1. Back Pay Policy Amendments
 - 2. Compliance and Enforcement Law
 - 3. Audit Law Amendments
 - 4. Comprehensive Policy Governing Boards, Committees and Commissions Amendments
 - 5. Administrative Rulemaking Law
 - 6. Hunting, Fishing and Trapping Law Amendments
 - 7. Domestic Animals Law Amendments
 - 8. Employment Law
 - 9. Per Capita Law Amendments
 - 10. Secured Transactions Act
- IV. New Submissions**
 - 1. Research Protection Act
 - 2. Severance Law Emergency Legislation
- V. Additions**
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

October 7, 2015 9:00 a.m.

PRESENT: Tehassi Hill, Jennifer Webster, David P. Jordan

EXCUSED: Brandon Stevens, Fawn Billie

OTHERS PRESENT: Taniquelle Thurner, Candice Skenandore, Douglass McIntyre, Krystal John, Rae Skenandore, Cheryl VanDenBerg, Norbert Hill Jr., Rhiannon Metoxen, Danelle Wilson, Ed Delgado, Leyne Orosco, Bradley Graham, Bill Graham, Nancy Barton, Mike Debraska via SEOTS.

I. Call To Order and Approval of the Agenda

Tehassi Hill called the October 7, 2015 Legislative Operating Committee meeting to order at 9:05 a.m.

Motion by Jennifer Webster to adopt the agenda with the addition of the Public Use of Tribal Land public meeting handout; seconded by David P. Jordan. Motion carried unanimously.

II. Minutes to be approved

1. September 16, 2015 LOC Meeting Minutes

Motion by Jennifer Webster to approve the September 16, 2015 LOC meeting minutes; seconded by David Jordan. Motion carried unanimously.

III. Current Business

1. Cemetery Law Amendments (04:33 – 14:30)

Motion by Jennifer Webster to accept the memorandum update and defer the Cemetery Law Amendments back to the Legislative Operating Committee and bring back when ready. Noting that the Legislative Operating Committee is waiting on the four Oneida Business Committee Officers to make a decision regarding cemetery maintenance; seconded by David P. Jordan. Motion carried unanimously.

2. Vehicle Driver and Fleet Management Policy (14:30-15:48)

Motion by Jennifer Webster to defer the Vehicle Driver and Fleet Management Policy back to the Legislative Reference Office for an updated legislative analysis and to prepare this item for a second public meeting; seconded by David P. Jordan. Motion carried unanimously.

3. Community Support Fund Policy Amendments (15:48-01:03:01)

Motion by Jennifer Webster to forward the Community Support Fund Policy Amendments to

a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by David P. Jordan. Motion carried unanimously.

4. Oneida Higher Education Scholarship (01:03:01-01:03:46)

Motion by Jennifer Webster to forward the Oneida Higher Education Scholarship to a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by David P. Jordan. Motion carried unanimously.

5. Removal Law Amendments (01:03:46-01:23:40)

Motion by Jennifer Webster to forward the revised Removal Law Amendments to a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by David P. Jordan. Motion carried unanimously.

6. Furlough Policy (01:23:40-01:28:06)

Motion by Jennifer Webster to defer the Furlough Policy to a Legislative Operating Committee work meeting to be held within 30 days; seconded by David P. Jordan. Motion carried unanimously.

IV. New Submissions

1. Research Protection Act (01:28:10-01:31:40)

Motion by David P. Jordan to defer the Research Protection Act to the next Legislative Operating Committee meeting in order for the requestor to answer questions; seconded by Jennifer Webster. Motion carried unanimously.

2. Real Property Law Amendments (1:31:40-01:33:07)

Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the active files list with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

3. Probate Law (1:31:40-01:33:07)

Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the active files list with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

4. Mortgage Law (1:31:40-01:33:07)

Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the active files list with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

5. Landlord-Tenant Law (1:31:40-01:33:07)

Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the active files list with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

6. Land Commission Bylaws Amendments (1:31:40-01:33:07)

Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the active files list with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

V. Additions

1. Public Use of Tribal Land Amendments (01:33:08-01:34:20)

Motion by David P. Jordan to forward the Public Use of Tribal Land Amendments to a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by Jennifer Webster. Motion carried unanimously.

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn

Motion by David P. Jordan to adjourn the October 7, 2015 Legislative Operating Committee meeting at 10:40 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee

October 21, 2015

Back Pay Policy

Submission Date: 6/11/15

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: David P. Jordan

Summary: *This request was submitted to clarify two conflicting provisions related to whether health insurance coverage continues during involuntary separation/terminations, and to require reinstated employees to reimburse CHS dollars used if an employee claims medical treatment from CHS prior to reinstatement.*

6/17/15 LOC: Motion by David P. Jordan to add the Back Pay Policy Amendments to the active files list with himself as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

8/19/15 LOC: Motion by Jennifer Webster to accept the memorandum regarding the status of the Back Pay Policy Amendments as FYI; seconded by Fawn Billie. Motion carried unanimously.

Next Steps:

- Forward for a legislative and financial analysis.

Draft #1
10/21/2015

Back Pay Policy

Article I. Purpose and Policy
Article II. Adoption, Amendment, Appeal
Article III. Definitions

Article IV. Back Pay Calculation
Article V. Back Pay Process

Article I. Purpose and Policy

1-1. The purpose of this Policy is to set forth standards used in the calculation of ~~b~~Back pay for all ~~e~~Employees of the Tribe in accordance with Tribal law.

1-2. It is the policy of the Tribe to have consistent and standard procedures for the management of ~~e~~Employee ~~b~~Back pay.

Article II. Adoption, Amendment, Appeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP and amended by resolutions BC-06-23-10-F and BC-08-13-14-C.

2-2. This Policy may be amended or repealed by the Oneida Business Committee 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 portions.

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

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

Article III. Definitions

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

(a) "Advocate" ~~shall~~ means s a non-attorney person as provided by law and other person who is admitted to practice law and is presented to the court as the representative or advisor to a party.

(b) "Back pay" ~~shall~~ means s money damages owed to the ~~e~~Employee for a salary or wage ~~that would have been earned to make the Employee whole as determined by the formulas set forth within this Policy. in the time taken to litigate the employment dispute, minus amounts that are deducted from salary or income earned from a third party employer or limited by other law of the Tribe.~~

(c) "Consequential Damages" ~~shall~~ means s damages that are not a direct and immediately result of an act, but a consequence of the initial act, including but not limited to penalties on early withdrawal of retirement account.

(d) "Consultant" ~~shall~~ means s a professional who is contracted externally whose expertise is provided on a temporary basis for a fee.

(e) "Court" ~~shall~~ means s the trial court of the Tribe's judicial system.

(f) "Earnings" ~~shall~~ includes s vacation/personal time, shift differential, holiday pay, merit increases, bonuses and incentives, employment benefits and income received during the

bBack pay period.

(g) “Employee” ~~shall~~ means 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 **eE**mployee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to; an individual employed by any program or enterprise of the Tribe, but does not include elected or appointed officials or individuals employed by a Tribally Chartered Corporation. For purposes of this Policy, individuals employed under an employment contract as a limited term **eE**mployee are **eE**mployees of the Tribe, not **eC**onsultants.

(h) “Involuntarily separated” ~~shall~~ means an **eE**mployee removed from employment through whatever means, other than a layoff, by the employer. This shall include, but is not limited to, investigative leave, suspension or termination.

~~(h)~~(i) “Punitive Damages” means monetary compensation awarded to an injured party that goes beyond that which is necessary to compensate the individual for losses and that is intended to punish the other party.

~~(h)~~(j) “Tribal” or “Tribe” ~~shall~~ means the Oneida Tribe of Indians of Wisconsin.

Article IV. Back Pay Calculation

4-1. *Back Pay Limitations.* Back pay shall only include the items identified in this Article as they relate to the **eE**mployee. Back pay shall include and be subject to the following:

(a) *Vacation/Personal Time Accrual.* Employees shall receive prorated credit for vacation/ personal time which would have accrued during the **bB**ack pay period.

(1) Reinstated **eE**mployees shall be credited for vacation/ personal time. If the crediting of vacation/personal time would result in the **eE**mployee exceeding the accrual cap of two-hundred eighty (280) hours pursuant to the Tribe’s personnel policies and procedures, then any amount over that cap shall be provided as a cash payout. Non-reinstated **eE**mployees shall be paid out vacation/personal time in lieu of crediting personal/vacation time.

(b) *Shift Differential.* Shift differential shall be included in the **bB**ack pay amount to the extent it is a part of the **eE**mployee’s regularly scheduled hours.

(c) *Tips.* If the **eE**mployee received pooled tips at the time of involuntary separation, tips shall be included in the total **bB**ack pay amount at the same tip rate that other **eE**mployees in the same position and on the same shift received on the same dates.

(1) If the **eE**mployee received individual tips at the time of involuntary separation, the **eE**mployee shall be ineligible for tips during the **bB**ack pay period.

(d) *Holiday Pay.* Holiday pay shall be included in the **bB**ack pay amount to the extent the **eE**mployee would have received such pay if the **eE**mployee had not been **i**nvoluntarily separated.

(e) *Merit Increases.* The hourly rate used to calculate **bB**ack pay shall be increased according to the merit increase system/standard used by the **eE**mployee’s supervisor during the **bB**ack pay period and will include any increases from Oneida Business Committee or General Tribal Council directives.

(1) The effective date of the **eE**mployee’s merit increase shall be the same as the

effective date for other eEmployees in the same department. Retroactive increases shall be calculated back to the retroactive date used for other eEmployees in the same department.

(2) The most recent performance review issued to the eEmployee prior to being involuntarily separated shall be used to determine the level of merit increase. However, if the eEmployee appealed the performance review to the Human Resource Department Manager prior to involuntary separation, a method under the Tribe's personnel policies and procedures shall be used to determine the merit increase.

(f) *Bonuses and Incentives.* All bonus and incentive payments for which the eEmployee would have been eligible during the bBack pay period shall be included in the total bBack pay amount, except for non-monetary gifts distributed by the Tribe to all eEmployees (e.g. Winter Gift gift certificates) or other non-monetary benefits, such as clothing allowance.

(g) *Employment Benefits.* Employee benefits shall be subject to the provisions in this section.

(1) *Health Insurance, Long-term Disability, and Short-term Disability Premiums.* Health Insurance, Long-term Disability, and Short-term Disability coverage by the Tribe shall continue during an involuntary separation, except in a termination where coverage will be discontinued. The Tribe shall deduct health insurance premiums from the bBack pay award. Health insurance coverage by the Tribe shall continue during the involuntary separation, excluding terminationsIn the event that an Employee is reinstated, the Employee shall reimburse the Tribe for any cost from a Purchased/Referred Care claim made during the time the Employee was out of work. If the eEmployee's circumstances have changed during the bBack pay period and such circumstances affect the eEmployee's health insurance needs, the eEmployee shall notify the Tribe of such changes at the time of reinstatement.

(2) *Flexible Benefit Plan Contributions.* If a terminated eEmployee was contributing to the Tribe's flexible benefit plan at the time of termination, the status of the eEmployee's flex benefit plan shall be subject to the provisions of the Internal Revenue Code.

(3) *Retirement Benefit Contributions.* In the event the eEmployee was participating in the Tribe's retirement plan at the time of involuntary separation, the employee shall be responsible for contacting the retirement plan administrator and reactivating contributions.

(A) The eEmployee may choose whether to have the eEmployee's contribution to the retirement plan that would have been made during the bBack pay period deducted from the total bBack pay amount and deposited into the eEmployee's retirement account.

(B) If the eEmployee was eligible for employer matching contributions at the time of involuntary separation and the eEmployee chooses to make a contribution through bBack pay, the Tribe shall contribute the employer match into the eEmployee's retirement account.

(C) If the eEmployee was not participating in the Tribe's retirement plan or chooses not to make contributions through the bBack pay process, then the Tribe shall not make employer match contributions into the eEmployee's retirement account or otherwise make payments to the eEmployee in lieu of employer match contributions.

(h) *Income Received During the Back Pay Period.*

(1) *Unemployment Benefits.* Any unemployment compensation paid by the Tribe to the State of Wisconsin for an iInvoluntarily separated eEmployee shall be deducted from the eEmployee's bBack pay award.

(2) *Income Received Through Employment.* Except as provided in 4-1(h)(2)(B), income earned by an eEmployee during the bBack pay period shall be deducted from the total bBack pay amount.

(A) The eEmployee shall provide information to verify the amount of or lack of earned income and sign an affidavit attesting to the amount of or lack of earned income.

(B) If the eEmployee worked an additional job prior to being iInvoluntarily separated and continued working in the same capacity, the income earned from that employment shall not be deducted from the total bBack pay amount to the extent that the income is consistent with pre-involuntary separation eEarnings. Where the eEmployee worked the additional job, the eEmployee shall provide information from the employer to verify the income earned before and during the bBack pay period.

4-2. *Payments Not Allowed.* The Tribe shall not include the following in any bBack pay amount:

(a) Punitive damages;

(b) Consequential dDamages;

(c) Attorney's or aAdvocate's fees.

(d) Time when the eEmployee would not have been eligible to work.

(e) Monies normally paid for additional duties while working where an alternate eEmployee assumed that function while the eEmployee was iInvoluntarily separated, unless the additional duties are a part of such iInvoluntarily separated eEmployee's regular schedule.

4-3. *Back Pay Period.* Calculation of bBack pay begins on the day the eEmployee is iInvoluntarily separated and ends on the day the eEmployee is reinstated.

(a) If the eEmployee is reinstated but refuses to return to work, the bBack pay period ends on the date reinstatement would have taken effect, but was refused by the eEmployee.

(b) Back pay shall be calculated by taking the eEmployee's eEarnings during the fifty-two (52) week period immediately preceding the date of the involuntary separation and divide that amount by the number of weeks worked.

(1) If the employment prior to the involuntary separation was less than fifty-two (52) weeks, the average weekly wage shall be calculated by taking the eEmployee's eEarnings and divide that amount by the number of weeks worked.

(2) If the involuntary separation period involves a fractional week, the indemnity

shall be paid for each day of such week at the rate of one-sixth (1/6) of the weekly indemnity.

Article V. Back Pay Process

5-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of implementing this Policy.

5-2. The Oneida Law Office shall work with the eEmployee's supervisor, the Human Resource Department, ~~and~~ the eEmployee/aAdvocate and other needed departments to assemble information and prepare the bBack pay agreement. A reasonable effort shall be made to complete the bBack pay agreement within thirty (30) calendar days, starting the day after the party to the grievance action provides to the Oneida Law Office a judgment ordering bBack pay or the results of an investigation showing the eEmployee is cleared of any wrongdoing.

5-3. An eEmployee not receiving bBack pay in accordance with the bBack pay agreement may seek enforcement by appealing to the eCourt.

End.

Adopted - BC-5-24-06-PP

Amended - BC-06-23-10-F

Amended - BC-08-13-14-C



Legislative Operating Committee

October 21, 2015

Compliance and Enforcement Law

Submission Date: 8/19/15

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: David P. Jordan

Summary: *This is a proposal for a new Tribal law that would establish a centralized entity responsible for overseeing compliance with Tribal law; and which would review existing legislation and present recommendations for new laws or amendments to existing laws to the Legislative Operating Committee, and which would track OBC and GTC directives and regularly report on the progress of those directives, so that responsible parties can be identified and held accountable.*

8/19/15 LOC: 8/19/15 LOC: Motion by David P. Jordan to add the Compliance and Enforcement Law to the active files list, noting that he will be the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Accept the memorandum as FYI and defer to the sponsor to bring back when ready.

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David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Memorandum

To: Legislative Operating Committee
From: David P. Jordan, Councilmember
Date: October 21, 2015
Re: Compliance and Enforcement Law

A handwritten signature in black ink, appearing to read "David P. Jordan", is written over the "From:" line of the memorandum header.

On August 11, 2015, my office submitted an agenda request form and a rough draft for a new law entitled Compliance and Enforcement Law to the Legislative Operating Committee (LOC). At the August 19, 2015 meeting, the LOC added the item 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 Legislative Reference Office (LRO) has been working on the draft and has come across various provisions that require legal research to determine if the provisions are viable as written. A Law Office memorandum is due to the Oneida Business Committee on November 25, 2015 for one of the petitions that will be helpful in clearing up one of the issues. Additionally, I have met with the Vice-Chair concerning a potential legislative proposal about the enforcement of Tribal laws. As this is compatible with the proposal, the LRO is exploring the possibility of expanding the draft to include these elements as well.

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 Compliance and Enforcement Law as FYI.



Legislative Operating Committee

October 21, 2015

Audit Law Amendments: Compliance Enforcement

Submission Date: 9/17/14

☐ Public Meeting:
☐ Emergency Enacted:
Expires:

LOC Sponsor: Brandon Stevens

Summary: *This item was deferred to the LOC by the OBC on May 8, 2013 and carried over into the current term by the LOC. The Audit Committee was requesting establishment of a standard requirement for correction of high risk findings and that the BC clarify roles and responsibilities related to audit issue interpretations and resolutions, including: identifying the primary authority to determine whether audit issues are pursued or closed, identifying who can enforce the need for management action and establishing a process to achieve results so past audits can be resolved and closed. The Audit Committee presented additional proposed amendments to the OBC on July 23, 2014.*

9/17/14 OBC: Motion by Jennifer Webster to add the Audit Law Amendments to the Active Files List, with Jennifer Webster as sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Review the draft and consider forwarding for a legislative analysis.

Chapter 8 Audit Law

8.1. Purpose and Policy
8.2. Adoption, Amendment, Repeal
8.3. Definitions
8.4. General
8.5. The Audit Committee

8.6. The Internal Audit Department
8.7. Audit Process.
8.8. Responsibility of Administration
8.9. Reports
8.10. Post-Audit Enforcement Authority

8.1. Purpose and Policy

8.1-1. *Purpose.* It is the purpose of this ~~law~~Law to create a framework of process and delegated authorities to protect the assets of the Oneida ~~Tribes of Indians of Wisconsin~~Nation. It is further the purpose of this law to define the respective responsibilities of parties involved to fully implement this law.

8.1-2. *Policy.* It is the policy of this ~~law~~Law to create a system with the necessary tools and delegated authorities to evaluate all activities, functions and operations of the Tribe. It is also the policy of this law to include the Tribe's component units, vendors, investments, and partners, within the scope of the law.

8.2 Adoption, Amendment, Repeal

8.2-1. This ~~law~~Law ~~is was~~ adopted by the Oneida Business Committee by resolution #BC-7-15-98-C ~~and amended by~~.

8.2-2. 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 General Tribal Council.~~

8.2-3. ~~All other Oneida policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically reenacted after adoption of this law.~~ 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.

8.2-4. 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.

8.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

8.3. Definitions

8.3-1. This section shall govern the definitions of words ~~or and~~ phrases ~~as used herein~~used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

~~8.3-2. Internal Audit Department. The department established within the Oneida Tribe of Indians of Wisconsin responsible for conducting independent appraisals of entities which examine and evaluate the activities as a service to the organization. It shall at all times observe the confidential nature of the information and audit results.~~

~~8.3-3. Audit Committee. That entity responsible for protecting assets of the Oneida Nation, by analyzing audit and financial reports, receiving complaints or allegations, and pursuing follow-up on audit recommendations.~~

~~8.3-4. Audit or Investigation. The process of gathering, reviewing, testing and evaluating the facts~~

of financial, operational, compliance or management issues. This includes necessary industry specific research.

8.3-5. *Reasonably related*. The condition of being directly or indirectly associated with a given issue or situation. It may be integral or incidental in nature.

8.3-6. *Entity*. Includes any or all activities, functions and operations of the Tribe, component units, vendors, consultants, partner in joint ventures, or businesses in which the Tribe has an investment.

8.3-7. *Component Units*. Tribally chartered corporations and autonomous entities including, but not limited to, limited liability corporations, State chartered corporations, Housing Authority, Economic Development Authority, boards, committees and commissions.

8.3-8. *Relevant Information*. Includes, but is not limited to, financial information and records regardless of custody, facilities, offices, people, equipment, inventories, tapes, activities, network servers, and files regardless of storage medium.

8.3-9. *Administration*. Includes all supervisory personnel of all tribal entities.

8.3-10. *Ethics*. Includes the Code of Ethics of the Oneida Tribe, Standards for Professional Practice of Internal Auditing as developed by the Institute of Internal Auditing Standards Board and any other law or professional standards as may be applicable.

(a) "Administration" means the supervisory personnel of an Oneida Entity.

(b) "Audit" means the process of gathering, reviewing, testing and evaluating the facts of financial, operational, compliance or management issues. This includes necessary industry specific research.

(c) "Audit Committee" means that entity responsible for protecting assets of the Oneida Tribe, by analyzing audit and financial reports, receiving complaints or allegations, and pursuing follow-up on audit recommendations.

(d) "Component Units" means Tribally chartered corporations and autonomous entities including, but not limited to, limited liability corporations, State chartered corporations, Housing Authority, Economic Development Authority, boards, committees and commissions.

(e) "Entity" means any activity, function or operation of the Tribe, component units, vendors, consultants, partner in joint ventures, or businesses in which the Tribe has an investment.

(f) "Ethics" means the Code of Ethics of the Oneida Tribe, Standards for Professional Practice of Internal Auditing as developed by the Institute of Internal Auditing Standards Board and any other law or professional standards as may be applicable.

(g) "Internal Audit Department" means the department established within the Oneida Tribe of Indians of Wisconsin responsible for conducting independent appraisals of entities which examine and evaluate the activities as a service to the organization. It shall at all times observe the confidential nature of the information and audit results.

(h) "Reasonably related" means the condition of being directly or indirectly associated with a given issue or situation. It may be integral or incidental in nature.

(i) "Relevant Information" includes, but is not limited to: financial information and records regardless of custody, facilities, offices, people, equipment, inventories, tapes, activities, network servers, and files regardless of storage medium.

(j) "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.

8.4. General

8.4-1. *Audit Committee*. There is hereby created a standing committee of the Oneida Business

Committee which shall have five ~~(5)~~ members, ~~two of which shall be designated a Chairperson and Vice Chairperson. The Committee will be composed of four Oneida Business Committee members selected concurrently with the election to the Oneida Business Committee, and a Tribal member, appointed at mid-term, who is not an employee of the~~

(a) Oneida Business Committee Members. The Committee will be composed of four (4) Oneida Business Committee members selected concurrently with his or her election to the Oneida Business Committee.

(b) Appointed Member. The Committee will be composed of one (1) Tribal member appointed by the Oneida Business Committee at mid-term, except in the case of a vacancy which must be filled promptly. The appointed members may not be an employee of the Tribe and must possess the Tribe, with appropriate knowledge, skills and experience demonstrated through a minimum of an associate's degree or five (5) years of business or government experience. The appointed member shall be subject to a background test.

(1) Tribal member that are appointed shall receive a stipend of fifty dollars (\$50) per hour of meeting time, with a maximum of two hundred fifty dollars (\$250) per month.

(c) All ~~M~~members of the Audit Committee shall adhere to all Tribal laws, codes, policies and procedures with the strictest confidentiality in all matters of the Audit Committee business.

8.4-2. *Internal Audit Department.* There is hereby created an Internal Audit Department which shall be responsible to the Audit Committee. The Internal Audit Department shall be managed by an Internal Audit Manager, ~~and shall begin audits based on one or more of the following:~~

~~a. The established audit plan.~~

~~b. Financial performance.~~

~~c. Approved audit requests.~~

~~d. Fraudulent or dishonest activities.~~

~~e. Previous audit results.~~

~~f. New or final status of an operating unit, activity, or function.~~

8.4-3. *Entity.* Entities that submit response and/or action plans to audits, investigations or recommendations are responsible for following through with the representations or providing adequate status change information to the Audit Committee.

8.4-4. *Audit.* The Internal Audit Department shall begin and complete any audits or investigations in a confidential manner. There ~~shall~~ must be a specifically identified objective approved by the Internal Audit Manager prior to commencement and any revision deemed necessary after commencement will also have the Internal Audit Manager approval prior to affecting that change in the audit plan.

8.5. ~~Authority of the~~ The Audit Committee

8.5-1. *General.* The Audit Committee has been delegated the authority by the Oneida Business Committee to ensure the integrity of the Tribe's financial reporting and audit systems.

8.5-2. *Oversight.* The Audit Committee shall have the responsibility of oversight over the Tribal audit processes and the process of investigation into any alleged or suspected improprieties and violations of fiscal and ethics policies, codes, regulations, and directives.

8.5-3. *Enforcement.* The Audit Committee ~~will~~ shall have the ability to utilize all existing enforcement authorities and the authority provided under this Law to carry out their responsibilities.

8.5-4. *Attendance of Meetings.* The Audit Committee shall require appropriate ~~a~~ Aadministration,

through the chain of authority, to appear at Audit Committee meetings.

8.6. ~~Authority of the~~The Internal Audit Department

8.6-1. *General*. The Internal Audit Department shall have delegated authority from the Audit Committee and shall have the greatest ability to obtain information reasonably related to an audit.

8.6-2. *Confidentiality*. The Internal Audit Department shall adhere to the Institute of Internal Auditors Code of Ethics and Statement of Responsibilities of Internal Auditing. The scope of their work shall be unrestricted and members of the Internal Audit Department will have no authority or responsibilities for the activities they audit. All members of the Internal Audit Department ~~will~~shall strictly adhere to confidentiality in all aspects of their work and ~~will~~shall not misuse or abuse their authorities.

8.6-3. *Records Management*. The Internal Audit Department shall maintain all information collected or derived from an audit. Upon closure of an audit, all documentation ~~shall~~must be retained for seven (7) years in a secure location in accordance with the Records Management Law. The files may be accessed by the Internal Audit Department for reference, planning or status update. Any other requests for access must be first approved by the Internal Audit Manager and the Audit Committee.

8.7. Audit Process.

8.7-1. The Internal Audit Department shall begin audits based on one (1) or more of the following:

- (a) The established audit plan.
- (b) Financial performance.
- (c) Approved audit requests.
- (d) Fraudulent or dishonest activities.
- (e) Previous audit results.
- (f) New or final status of an operating unit, activity, or function

8.7-2. The Internal Audit Department will first issue a written request to Entity being audited requesting:

- (a) A list of the Relevant information needed to complete the Audit;
- (b) A notice of the time requirements found in sections 8.7-3 and 8.7-4;
- (c) A notice that a request for a need-based extension must be made to the Internal Audit Department in writing before fourteen (14) days; and
- (d) That the failure to cooperate may lead to disciplinary actions from the Oneida Business Committee.

8.7-3. An Entity may make a request for an extension of the thirty (30) day timeline by specifically detailing the reasoning for the need for a time extension to the Internal Audit Department in writing within fourteen (14) days of the receipt of a request.

8.7-4. Within fourteen (14) days of the receipt of a request from the Internal Audit Department, an Entity shall respond in writing to the Internal Audit Department.

8.7-5 Within thirty (30) days of the original receipt of the request from the Internal Audit Department, if an extension was not requested or was denied, the Entity shall respond with information Reasonably related to the request.

8.8. Responsibility of Administration

8.8-1. General. Administration of an audited Entity is required to adhere to the Audit Law and

all related procedures. Where an Entity is found violating this Law, the Administration is subject to discipline in accordance with the personnel procedures and policies. Additionally, this may lead to a withholding of the Entities funding.

8.8-2. If an Administration or Entity fails to answer the initial written request, fails to meet the deadlines provided in this Law or fails to provide the Relevant information requested based on an audit, the Internal Audit Department shall send a report to the Audit Committee recommending action.

8.8-3. The Audit Committee may request the matter be placed on the Oneida Business Committee agenda at the next available meeting and direct the appropriate parties involved to appear before the Committee.

8.8-4. If the Oneida Business Committee determines that Administration is not in compliance with this Law, the Committee shall take such corrective action as is necessary to secure compliance or to prevent future noncompliance, including but not limited to:

(a) Request any necessary information;

(b) Report proven inappropriate and/or illegal activity to the proper authorities;

(c) Direct a supervisor to discipline an employee(s) based on the failure to answer the initial written request, failed to meet the deadlines provided in this Law or failed to provide the Relevant information requested;

(d) Take steps to terminate a board, committee or commission member's appointment or to remove him or her from the board, committee or commission;

(e) Restrict an entity from doing business with the Tribe; and/or

(f) Restrict an entity's funding

8.9. Post-Audit Enforcement Authority

8.9-1. After an audit report draft has been issued, the Audit Department shall request an Entity provide a response and/or an action plan based on the results and recommendations. Entities shall follow through with the representations or provide adequate status change information. Action plans shall include:

(a) a clear statement of agreement or disagreement with the audit representations;

(b) a clear action plan statement(s);

(c) the title of the person(s) responsible for the action plan; and

(d) a specific timeline for completion of the action plan.

8.9-2. If an Entity fails to comply with an action plan or fails to provide an adequate action plan based on an audit, the Audit Committee shall report these results to the Oneida Business Committee, including the potential risks associated with failing to take action.

8.9-3. Upon receiving a report from the Audit Committee that an Entity has failed to comply with an action plan or failed to provide the Audit Committee with an adequate action plan or update based on an audit, the Oneida Business Committee shall:

(a) Request any necessary information;

(b) Report proven inappropriate and/or illegal activity to the proper authorities;

(c) Direct a supervisor to discipline an employee(s) based on the failure to comply with an action plan or failure to provide the Audit Committee with an adequate response or action plan based on the audit;

(d) Take steps to terminate a board, committee or commission member's appointment or to remove him or her from the board, committee or commission;

(e) Restrict an entity from doing business with the Tribe; and/or

(f) Restrict an entity's funding

8.9-4. If the Oneida Business Committee's actions or results are deemed insufficient by the Audit Committee based on the existing risks, then such issues shall be returned to the Audit Committee to request the matter be placed on the General Tribal Council agenda at the next available meeting.

(a) Audit Committee shall present issues, risks and recommendations for the General Tribal Council consideration.

(b) Audit Committee shall ensure any General Tribal Council action taken is enforced.

(c) Failure of any entity to comply with the General Tribal Council directive shall be deemed a violation of this Law and be punishable by fines, or penalties, such as dismissal from employment or from an appointed position.

8.710. Reports

8.78.10-1. The Audit Committee shall report, as deemed appropriate, to the Oneida Business Committee.

8.78.10-2. The Internal Audit Department shall make reports to the Audit Committee, Oneida Business Committee, and Administration on a need to know basis.

8.78.10-3. Annual Audit. The annual audit of the Oneida Tribe shall be posted the locations identified in this section. The annual audit shall be limited to review by General Tribal Council members only, and shall require that the individual sign in to review the document.

(a-) Oneida Community Library.

(b-) Tribal Treasure's Office.

(c-) Finance Department Offices.

(d-) Oneida Business Committee Records Technician's Offices.

~~8.8. Responsibilities of Administration~~

~~8-1. General. Administration is required to adhere to the Audit Law and all related procedures. Failure to comply shall be considered as uncooperative and subject to enforcement under sec. 5-3.~~

End.

Adopted - BC-7-15-98-C

Emergency Adoption – BC-5-12-99-C (expired)

Emergency Adoption – BC-6-9-99-C (expired)



Legislative Operating Committee

October 21, 2015

Comprehensive Policy Governing Boards, Committees and Commissions Amendments

Submission Date: 9/17/14

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: Jennifer Webster

Summary: *This item was carried over into the current term by the LOC. Amendments were requested to: prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions. In addition, the OBC directs that the appointment process be reviewed.*

9/10/14 OBC: Motion by Lisa Summers to direct the Tribal Secretary's Office to send formal correspondence to the Land Claims Commission requiring them to submit their reports by Friday and to request the LOC to bring back a recommendation on how to amend the Comprehensive Policy Governing Boards, Committees, and Commissions to include the withholding of stipends payments to Boards, Committees, and Commissions who do not provide their reports in a timely manner, seconded by Fawn Billie. Motion carried unanimously.

9/17/14 LOC: Motion by Jennifer Webster to add the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor for this item.

4/22/15 OBC: Motion by Lisa Summers to direct the Comprehensive Policy Governing Boards, Committees, and Commissions appointment process be sent back to the Legislative Operating Committee for amendments and to bring back a recommendation on clarifying the process, seconded by Fawn Billie. Motion carried unanimously.

5/6/15 LOC: Motion by Jennifer Webster to defer the Comprehensive Policy Governing Boards, Committees and Commission to a Legislative Operating Committee work meeting; seconded by David P. Jordan, motion carried unanimously.

5/27/15 OBC: Motion by Jennifer Webster to accept the report from the Secretary's Office as information and to request the LOC to make the necessary policy amendments to the Comprehensive Policy Governing Boards, Committees and Commissions to address this issue, seconded by Lisa Summers. Motion carried unanimously.

6/8/15: Work Meeting held. Attendees: Danelle Wilson, Melanie Burkhart, Brandon Stevens, Rae Skenandore, David Jordan, Jacob Metoxen, Tehassi Hill, Fawn Billie, Jenny Webster, Kathy Metoxen, Candice Skenandore, Tani Thurner, Fawn Cottrell, Lynn Franzmeier, Daril Peters, Jordan Rasmussen.

8/4/15: OBC Work Meeting held. Attendees: Jennifer Webster, Trish King, Tina Danforth, Tehassi Hill, David P. Jordan, Fawn Billie, Fawn Cottrell, Dawn Moon-Kopetsky, Krystal John, Tani Thurner.

Next Steps:

- Review and accept the analysis; consider directing the Legislative Reference Office to prepare the public meeting packet for a public meeting to be held on December 3, 2015.

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Comprehensive Policy Governing Boards, Committees and Commissions

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all of the matters – laws and policies – they’re watching over them – the ones that have been appointed

Article I. Purpose and Policy

Article II. Adoption, Amendment, Repeal

Article III. Definitions

Article IV. Applications

Article V. Vacancies

Article VI. Appointed Entities

Article VII. Elected Entities

Article VIII. By-laws of Boards, Committees and Commissions

Article IX. Minutes

Article X. Dissolution of Entities

Article XI. Stipends, Reimbursement and Compensation for Service

Article XII. Confidential Information

Article XIII. Conflicts of Interest

<i>Analysis by the Legislative Reference Office</i>					
Title	Comprehensive Policy Governing Boards, Committees, Commissions (“the Policy”)				
Requester	LOC – Prior Term	Drafter	Krystal John	Analyst	Tani Thurner
Reason for Request	Amendments requested in the previous term that would have reconciled the Policy with proposed amendments to the Election Law; however that law has not been amended yet. Additional changes have been made based on LOC and OBC work meetings.				
Purpose	This Law governs the application process for seeking appointment or election to a Tribal entity, and includes requirements related to member stipends and compensation, vacancies on an entity, bylaws, and various other requirements related to Tribal boards, committees and commissions.				
Authorized/Affected Entities	Tribal Secretary’s Office, Tribal Chair, all Tribal boards, committees and commissions; and all persons seeking election or appointment to an entity.				
Due Process	n/a				
Related Legislation	Election Law, any other laws that set out requirements for a Tribal board, committee or commission.				
Enforcement	New provisions are added which would enable the OBC to suspend the payment of stipends to an entity until the entity comes into compliance with this Law (except for the Gaming Commission – for that, the OBC may impose fines of \$50-100 for members found to be in noncompliance, or suspend all “employment benefits that are not essential to the Member’s employment requirements as a condition of gaming licensing, for example, non-essential travel.” [11-6]				

Overview

The proposed amendments to the Policy:

- Address what happens when the OBC rejects a person selected by the Tribal Chair for appointment to a Tribal board, committee or commission (hereinafter: entity).
- Clarify that a member’s status as an elected or appointed official is based on the status of the entity, regardless of whether the member is appointed or elected.
- Add new provisions enabling entities to make recommendations to the Chair regarding appointments to their entity, and that also enable appointed entities to seek termination of appointment for one of its members, for specific misconduct.

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- Update the requirements for what notice must be provided to applicants seeking appointment or election.
- Change the requirements for how the Secretary must post notice of vacancies.
- Change the requirements for what an entity's bylaws must contain, including the addition of detailed reporting requirements.
- Expand the definition of immediate family.
- Add that if a member of an entity is removed from office or has his/her appointment terminated, then s/he is ineligible for appointment or election to any entity for at least one year after the effective date of the termination or removal.
- Make additional changes to update and streamline the policy.

Chairperson's selection of a candidate for appointment

This Policy sets out the process for a person to be appointed to serve on an entity – the Tribal Chair selects a candidate, and brings that selection to the entire OBC, who will vote on the appointment. However, the Policy does not identify what should happen if the OBC rejects the person selected by the Chair. To clarify, the amendments now require that once the Chair has selected an applicant for appointment, the Chair must forward the entire list of qualified applicants to the OBC, not just the Chair's selected applicant. A new provision adds that if the OBC rejects the applicant selected by the Chair, then the OBC shall either: approve another applicant from the list of qualified applicants, return the vacancy to the Chair with direction to prepare another recommendation, or direct the vacancy be re-posted. [6-2(c)]

Member Status as Appointed or Elected

A new provision clarifies that, regardless of whether a Member is appointed or elected to serve on an entity, the member's status as appointed or elected is based on how the entity is classified by their own bylaws. [6-1(a)]

This change was made to address members *appointed* to serve on an entity that is primarily made up of elected members. Generally, this situation happens when a vacancy occurs while there is not much time left in a term, and there are some positions (i.e. alternates for the Election Board) that are appointed while most of the entity's positions are elected.

The main effects of this new provision are to clear up confusion related to stipends – members serving on appointed entities are limited to only earning one \$50 meeting stipend per month; but elected members are not subject to that limitation and can have multiple meetings in a month, and/or a higher stipend amount.

Board, committee, commission role in determining appointed positions

Under the amendments, appointed Tribal entities are given more of a role in determining their own membership. Changes include:

- Entities are now allowed to provide recommendations to the Tribal Chairperson when s/he is selecting an applicant for appointment to their entity; the Tribal Chairperson "may" consider the Entity's recommendations, if any are provided. [6-2(b)] Although not addressed in the current Policy; there are some entities that already include similar provisions in their bylaws; this language ensures uniformity in the process.
- A new provision is added that would enable an appointed entity to seek termination of appointment for one of its members for:

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- Failure to meet and maintain the requisite qualifications
- Breach of confidentiality
- 3 or more unexcused absences (not giving 24 hours' notice of an anticipated absence)
- 4 or more consecutive absences – regardless of whether they are excused or not.
- Any other cause for termination established in the entity's bylaws. [6-5(a)]

Required Notice for Applicants

Various changes were made to align this Policy with the Election Law and to clarify how this Policy applies to elected officials:

- Currently, “application” is defined the process by which a person proceeds to be appointed to a vacancy. Under the amendments, it is also defined as the process by which a person proceeds to be “considered as a candidate for an election.” [3-1(a)]
- At the end of a posted application deadline, the Secretary (for applicants seeking appointment) and Election Board (for applicants seeking to run for an election) are still required to provide notice to all applicants. Notice is no longer required to be sent by postcard, but now must be formatted the same for all applicants and must include certain information listed in the Policy.[4-5] The main changes include:
 - All applicants must be notified of the applicable duties they will have if they should be elected/appointed to the seat they are seeking. [4-5(a)(4)]
 - All applicants must be provided with notice of the taxability of stipend payments and their responsibility to document their expenses related to that income. Currently, this information is only required to be provided to those actually elected or chosen for appointment. [4-5(a)(5)]

Posting Notice of Vacancies

- The Secretary must still post notice of Vacancies in the Kalihwisaks and at any reasonable location requested by the Entity. However, Notice is required to be posted on the Tribal website instead of in the Tribal Secretary's Office, various buildings, and in the minutes of the OBC. [5-5]
- A new provision adds that if there is an administrative/clerical error in the posted notice, the Secretary may repost the notice of Vacancy as soon as practicable after noticing the error; and without needing to obtain OBC approval first. When a notice is re-posted, prior applicants will be considered to have filed applications within the deadline period. [5-6]
- The Secretary is no longer specifically responsible for notifying entities when notice of a vacancy must be posted and instead, the Entity would be responsible for notifying the Secretary whenever a position becomes vacant; so that the Secretary can post notice.
- Instead of identifying when notice must be posted after a vacancy, the amended Policy identifies deadlines for when the Secretary must request permission from the OBC to post notice of vacancies, and generally, the Secretary must post notice of vacancy “within a reasonable time” after the OBC grants permission. [5-4]
 - For vacancies caused by the regular end of a term, the Secretary must now request permission – notice is no longer automatically posted 30 days before a term ends, although it is still required to be posted 30 days before the end of the term. However, for these types of vacancies, the Secretary may request permission “on an annual

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basis” – meaning the Secretary would only need to obtain permission for all such postings once. [5-4]

Penalties for Noncompliance

Currently, the Policy does not address what happens if an entity fails to comply with this Law. The amendments add that (with one exception) if an entity fails to comply with the requirements of this Policy, the OBC may suspend its’ members’ stipends until the Entity has demonstrated to the satisfaction of the OBC that the entity has attained compliance. [11-6]

The one exception to this new rule states that if the Oneida Gaming Commission fails to comply with this Policy in matters not governed by ONGO, then the OBC may do either or both of the following:

- Impose a fine of \$50-\$100 on any or all members found to be in noncompliance,
- Suspend all “employment benefits” that are not essential to the Member’s employment requirements as a condition of gaming-licensing, “for example, non-essential travel”. [11-6(a)]

Changes to the Requirements for Bylaws

Under the amendments, an entity’s Bylaws must now include:

- Whether the entity is an elected or appointed body (not just how members are elected/appointed).
- Any causes for termination or removal in addition to those identified in this Policy and Removal Law.
- This provision: “In order to justify holding an emergency meeting, the [insert Entity name] must provide the reason for the emergency meeting and why the matter cannot wait for a regularly scheduled meeting. The emergency meeting must be necessary to maintain order and/or protect public health and safety.” [8-4]

Reporting Requirements

Currently, the Policy only discusses reporting to the OBC member that is the entity’s liaison. New language is added that also requires entities to make and submit:

- Quarterly reports to the OBC, based on a reporting schedule created by the Secretary. The reporting schedule must be approved by the OBC and posted on the Tribe’s website.
- Annual Reports to GTC based on the entities’ activities during the previous fiscal year.
- Semi-Annual Reports to GTC based on the entities’ activities during the current fiscal year. (For these, the entity is mostly only required to update any information that has changed from the annual report, or to provide additional information on progress since the previous report.)

The Policy comprehensively identifies what information must be included in entities’ reports to the OBC and GTC – the list of requirements in the Policy is four pages long. Not only must each entity provide reports for their own entity, but they must also provide reports containing most of the same information for each department the entity oversees. [8-4(d)(4)(a)]

Immediate Family

The definition for “Immediate Family” was moved up from within the Policy, and additional relations were added. Currently, immediate family is defined as a person’s (and their spouse’s) grandparents, parents, siblings, children and grandchildren.

Under the amendments, “immediate family” no longer includes a spouse’s grandchildren

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or grandparents, but several new relationships are added to the definition, including:

- Spouses
- Aunt/Uncle/Niece/Nephew
- First Cousin (children of a parent’s sibling)
- Second Cousin (children of a grandparent’s sibling)
- Step-parents and Step-children. [3-1(e)]

The term “immediate family” is only used once in the Policy – providing that “No member, or their immediate family” may have a financial interest in any transaction between the Entity and an outside party where the Member has a financial or familial relationship. [13-9] This provision may benefit from clarification as to intent. Further, this extended definition of “immediate family” may have a much broader effect, and will require extensive conflict checks.

Miscellaneous Changes

Language is revised - appointed and elected members of Tribal boards, committees, and commissions (members) are no longer referred to as “officials” but as “members” instead. [3-1(h)]

A new provision clarifies that when the OBC terminates a member’s appointment; that decision is final, binding, and cannot be appealed. [6-5]

Language clarifies that a member’s removal from office is effective “upon a determination to Remove pursuant to the Removal Law” instead of under adopted and approved procedures of the entity. [5-2(b)]

An attached application form and sample format for a response form are deleted. Any application form must still be generated by the Secretary and approved by the OBC. [4-1]

Internal audit staff must still notify the Law Office upon finding evidence of noncompliance with any Policy regarding the use of Tribal assets. Currently, when such a notification is made, the Law Office will make a determination of further action to be taken. The amendments add that the Law Office or Oneida Business Committee will make a determination of any further action to be taken. [13-23]

Various other minor changes have been made to improve the readability and quality of this document.

A public meeting has not been held.

Considerations

The following are issues the LOC may want to consider:

- 6-1 now provides that a members’ status as an elected or appointed official is now based on the status of the entity. As written, this means that members appointed to an elected entity would not be subject to termination of appointment – they would be subject to removal; which is a more difficult process. This also means that for such appointed members, an elected entity could not request termination of appointment like other entities. This is a policy call.
- Over the years, there have been various discussions regarding whether this Law applies to the Oneida Business Committee, OBC Standing Committees, and/or the Judicial system. It may be beneficial to specifically identify whether it applies to all three of those entities, and whether there are any exceptions, etc.

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- Various changes were made to 8-4, which specifically identifies information that must be included in an entity's bylaws. These changes will result in most or all existing bylaws being noncompliant with this Policy until they are amended. This may need to be addressed in the adopting Resolution; it may be beneficial to review all entities' bylaws.
 - Comprehensive reporting requirements were placed under 8-4(d), which states "Article IV. Reporting is to consist of the following information" – if the intent is not to require that this language, added to the Comprehensive Policy must be included in bylaws – word for word – then this may need review.
 - 11-7 states that "A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution." However, it is not clear if this means a resolution of the entity, or of the OBC, or GTC.
 - Various provisions in this Policy may benefit from revision for clarity – i.e. to streamline and make less complicated, so that a layperson can clearly see and understand the intent and requirements – for example:
 - 11-6. If an Entity, other than the Oneida Gaming Commission, fails to comply with the requirements of this Policy, the Oneida Business Committee may suspend the Entity's Members' Stipends with payment of Stipends resuming moving forward once the Entity has demonstrated to the satisfaction of the Oneida Business Committee that it has attained compliance herewith. *See also 13-14, et. al.*
 - 5-4(d) requires the Secretary to request permission to post Vacancies for new positions no later than the first Oneida Business Committee following the latter of either the creation of the Entity or the adoption of the Entity's by-law.
 - Recommend changing "latter" to "later" to effectuate intent of this provision. "Latter" is incorrectly used.
 - The Policy does not recognize "special meetings", only regular and emergency. Because Tribal entities have bylaws referring to special meetings, it may be beneficial to refer to them in this Policy as well.
- Additional minor language issues have been identified and will be discussed with the sponsor.

Comprehensive Policy Governing Boards, Committees and Commissions

Article I. Purpose and Policy

1-1. It is the purpose of this ~~policy~~Policy to govern the standard procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws, maintenance of official records, compensation, and other items related to boards, committees and commissions. This ~~policy~~Policy does not apply to ~~Tribal~~the Tribe's corporations due to the corporate structure and autonomy of those ~~entities~~Entities.

1-2. It is the Tribe's policy to have consistent and standard procedures for choosing and appointing the most qualified persons to boards, committees and commissions, for creation of by-laws governing boards committees and commissions, and for the maintenance of information

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created by and for boards, committees and commissions.

Article II. Adoption, Amendment, Repeal

2-1. This ~~policy~~Policy was adopted by the Oneida Business Committee by resolution # BC-~~5-14-97-F~~8-2-95-A and amended by resolutions # BC-~~5-14-97-F~~, # BC-09-27-06-E ~~and~~, # BC-09-22-10-C, ~~and~~ # BC-.

2-2. ~~This policy~~Policy may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~ by the Oneida Business Committee and/or the Oneida General Tribal Council, ~~regardless of where the original adoption took place pursuant to the procedures set out in the Legislative Procedures Act.~~

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

~~2-4. Any policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this policy is hereby repealed to the extent that it is inconsistent with or is contrary to this policy. Provided that meeting stipends for elected members of a board, committee or commission that are in effect on [adoption date of the amendments] shall remain unaffected, but prior exceptions to this policy for appointed entities shall be repealed to extent that meeting stipends are inconsistent with this policy.~~

2-4. In the event of a conflict between a provision of this Policy and a provision of another law or policy, this Policy controls, provided that the requirements of the Oneida Nation Gaming Ordinance supersede the provisions of this Policy in regards to the Oneida Gaming Commission.

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

a. 3-2. "Entity" "Application" means any process by which a person seeks to be appointed to a Vacancy or considered as a candidate for an election.

b. "Appointment" means the process by which a person is chosen to fill a Vacancy.

c. "Chairperson" means the current elected Chairperson of the Tribe or his or her designee.

d. AConference@ means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.

a.e. "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose ~~members~~Members are appointed by the Oneida Business Committee or elected by ~~the General Tribal Council~~a majority of the Tribe's eligible voters.

~~3-3. "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.~~

~~3-4. "Application" means any process by which a person proceeds to be appointed to a~~

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vacancy.

~~3-5. "Appointment" means the process by which a person is chosen to fill a vacancy.~~

~~f. 3-6. "Financial Interest" means any profit sharing arrangements, rebates, payments, commissions, or compensation, in any form, and includes any form of ownership, regardless of ability to control the activities of the business, provided that, this does not include ownership of shares which, other than in combination others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.~~

~~g. "Immediate Family" means the husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, first or second cousin, step-parent, or step-child.~~

~~h. "Member" means any person appointed or elected to membership on an Entity.~~

~~i. APer Diem® means the payment made by the Tribe to offset the costs of being out-of-town or of traveling on behalf of the Tribe.~~

~~j. "Stipend" means that amount paid by the Tribe to persons serving on boards, committees and commissions of the Tribe to offset the expenses of being a member on the board, committee or commission.~~

~~b.k. "Task Force or Ad Hoc" Committee" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.~~

~~e.l. 3-7. AConference® "Transaction" means any training, seminar, meeting, or other assembly activity wherein a provider of persons which goods and/or services is not an assembly of the entity compensated in any form.~~

~~d.m. 3-8. APer Diem® "Tribe" or "Tribal" means the payment made by the Tribe to offset the costs of being out of town or to travel on behalf of the Oneida Tribe of Indians of Wisconsin.-~~

~~n. 3-9. AStipend® "Secretary" means that amount paid by the Oneida current elected Secretary of the Tribe of Indians of Wisconsin to persons serving or his or her designee.~~

~~p. "Vacancy" means any position on boards, committees and commissions of the Oneida Tribe of Indians of Wisconsin to offset the expenses of being a member on the any board, committee or commission caused by resignation, end of term, removal, termination, creation of a new position or end of an designated interim term.~~

~~3-10. AOfficial® means any person appointed or elected to membership on an entity of the Oneida Tribe.~~

Article IV. Applications

4-1. All applications ~~The Secretary~~ shall be generated by the Tribal Secretary's Office ~~generate,~~

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and ~~approved by~~ the Oneida Business Committee: must approve, the application form required to be used by all applicants.

4-2. Application forms must contain:

~~4-2. The content of applications shall be as follows:~~

a. questions designed to obtain the ~~following information~~ applicant's

1. name;
2. address;
3. phone number;
4. enrollment number; and
5. position applied for.

b. ~~applications may contain any other~~ additional questions, if necessary, to obtain information necessary to making make an informed decision as to the qualifications of any individual to ~~hold any vacancy~~ fill a Vacancy.

~~e. Form A-1, attached, is the current approved application form in use and shall be placed in the Tribal Secretary's Office and other locations specified by the Tribal Secretary's Office.~~

4-3. All applicants shall file their Applications ~~shall be filed with the Tribal Secretary's office~~ Secretary by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the ~~Tribal Secretary's Office within five (5) business days of the deadline.~~ At the completion of the posted deadline for filing applications the Tribal Secretary shall notify by postcard all persons who have filed an application of the date the application was filed and whether it will be considered for the election or appointment. A tentative date for appointment will be placed on the post card with the instruction that this is a tentative date and further information can be requested by calling the Tribal Secretary's Office. Postcard information should be in substantially similar format as that in Figure 1. Secretary within five (5) business days of the deadline.

Your application was received on:	339
Tentative date for appointment or election:	340
You application 9 is - 9 is not being considered.	341
For more information, call the Tribal Secretary's Office at 869-2214.	342
	343
	344
	345

4-4. The Election Board shall verify all Applications for elected positions shall be verified according to in accordance with the Oneida Election Ordinance. Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all

Applications for appointed positions ~~shall be verified by the Tribal Secretary's Office~~ as needed or as required ~~in~~ by the Entity's by-laws to ensure the eligibility and qualification requirements are met.

4-5. At the completion of the entity-posted deadline for filing Applications, the Election Board shall provide notice to all persons who have filed an Application for an elected position and the Secretary shall provide notice to all persons who have filed an Application for an appointed position.

a. Such notice must be formatted the same for all applicants and must minimally include the following:

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1. the date the applicant's Application was filed;.
2. whether the applicant meets the eligibility requirements as determined by the Entity's by-laws and will be considered for the election/appointment;
3. a note that further information can be requested by contacting the party sending the notice and providing such contact information;
4. the applicable duties should the applicant be selected; and
5. if eligible for election/appointment:

The Oneida Tribe reports all income paid by the Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.®

- 4-~~5~~6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the ~~Tribal~~ Chairperson ~~may~~shall elect to either:
- a. ~~Include~~Allow late Applications to be included within the applicant pool ~~of appointed persons late applications~~,
 - b. Repost the Vacancy for an additional time period. In the event of reposting, prior applicants will be considered to have filed ~~applications~~Applications within the deadline period.

Article V. Vacancies

5-1. This ~~article shall govern~~Article governs when ~~vacancies~~Vacancies occur, and where and when notice of the ~~vacancies shall~~Vacancies must be posted.

5-2. The following ~~vacancies shall be~~Vacancies are effective as listed herein:

- a. End of Term. A ~~vacancy~~Vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends ~~as of~~according to the ~~Entity's~~Entity's by-laws ~~of the entity~~.
- b. Removal. Removal is effective, ~~under adopted and approved procedures of the entity, when the final action has taken place. Where upon a final action is defined as~~
determination to Remove pursuant to the Removal Law ~~1. failure to file a timely appeal,~~
~~2. denial of appeal, or~~
~~3. final written opinion is filed.~~
- c. Resignation. A resignation is effective upon:
 1. Deliverance of a resignation letter to the ~~entity~~Entity; or
 2. The Entity's acceptance ~~2. Acceptance~~ by motion of ~~the entity of~~ a verbal resignation.
- d. Termination of Appointment. A termination is effective upon a two-thirds majority vote of the entire Oneida Business Committee in favor of a Member's termination of appointment.
- e. New Positions. Vacancies on new entities ~~Entities~~ and for new positions on existing Entities are effective upon adoption amendment of by-laws.
- f. Interim Positions. Vacancies of interim positions are effective upon creation of interim positions by the Oneida Business Committee or General Tribal Council.

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5-3. ~~All notices of vacancy~~Entities shall ~~be sent to~~notify the ~~entities for clarification or confirmation prior to notification to the Oneida Business Committee. The following guidelines are minimum notice requirements:~~

~~a. End of Term. Entity should be notified 60 days prior to end of term by the Tribal Secretary.~~

~~b. Removal or Resignation. Entity should be notified as soon as final action is taken by the Oneida Business Committee or General Tribal Council to accept the resignation, or final action according to any Removal law of the Tribe~~position(s) becomes vacant so that the Secretary may post the notice of Vacancy in order to fill the Vacancy in accordance with the requirements of this Article.

~~5-4. 5-4. Notice of vacancies shall be by~~Except as expressly stated otherwise, the Tribal Secretary's Office in the following locations:

~~a. Tribal Secretary's Office~~

~~b. The Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the South Eastern Wisconsin Oneida Tribal Services (SEOTS) building and the Highway 54 and E & EE Oneida One Stops.~~

~~c. Kalihwisaks~~

Secretary shall request permission from~~d. Minutes of the Oneida Business Committee, and~~

prior to posting~~e. Any reasonable location requested by the entity.~~

~~5-5. The Tribal Secretary's Office shall forward the notice of vacancy to the Oneida Business Committee for approval and direction to post notice~~a Vacancy as set out in this Article. ~~The Tribal Secretary and~~ shall post ~~notice~~notices of ~~vacancies at~~Vacancy within a reasonable time of the Oneida Business Committee's grant of permission, in accordance with the following~~times~~:

a. End of Term. The Secretary may request permission to post notice of Vacancies for positions becoming vacant due to term completions on an annual basis; the notice of Vacancy for each term completion must be posted thirty (30) days in advance of each term completion.

b. Removal. Permission to post notice of Vacancies based on removal must be requested no later than the first Oneida Business Committee meeting following the effective date of the removal.

c. Resignation. Permission to post notice of Vacancies based on resignation must be requested no later than the first Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the Entity.

1. d. New Positions. ~~a. End of Term. Automatically thirty days prior to completion of the term~~If:

~~b. Removal. Upon notice by Secretary, or other person authorized by the by laws of the entity, to the Tribal Secretary's Office.~~

~~c. Resignation. Upon notice by Oneida Business Committee or General Council does not specify a date for posting new positions when creating an Entity, the Secretary, or other person authorized by shall request permission to post Vacancies for new positions no later than the by laws of first Oneida Business Committee following the entity, to~~latter of either the Tribal Secretary's Office.

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~~d. New Positions.~~ Upon one of the following conditions:

~~1. if not specified, immediately upon~~ creation of ~~entity~~the Entity or ~~the~~ adoption of ~~by-laws, whichever is later, or~~the Entity's by-law.

~~2. upon date specified when creating the entity.~~

e. Interim Members. ~~Upon one of the~~Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following:

~~1. upon completion of the term designated to hold in new entity, or~~

~~2. upon the~~ completion of ~~vacant~~the term ~~of the pre-existing entity~~the interim Member was designated to hold.

f. Termination of ~~appointment.~~ At Appointment. Permission to post notice of Vacancies based on termination of Appointment must be requested no later than the next first Oneida Business Committee meeting following the effective date of the termination.

5-5. At the direction of the Oneida Business Committee, the Secretary shall post notice of Vacancies in each of the following locations:

a. on the Tribe's website;

b. in the Kalihwisaks; and

c. ~~of appointment.~~ any reasonable location requested by the Entity.

5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as practicable after noticing such error. Under these limited circumstances, the Secretary does not require the approval of the Oneida Business Committee to repost notice of the Vacancy. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

Article VI. Appointed ~~Positions~~Entities

6-1. All appointments ~~shall~~must be made by the Oneida Business Committee at regular or special Oneida Business Committee meetings. ~~Provided, provided~~ that, no applicant may be appointed who fails to meet the requirements set out in the ~~entity's~~Entity's by-laws.

a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

6-2. The following procedures ~~shall~~must be used to determine ~~who shall be~~which applicant is appointed:

a. ~~Five~~Within five (5) business days after ~~close of notice,~~ all applications shall be delivered to the Tribalthe application deadline and notice has been provided pursuant to Article 4-5, the Secretary shall deliver to the Chairperson all eligible Applications, as verified by the Secretary, along with a summary of qualifications to hold office.

b. When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. Within a reasonable time, the ~~Tribal~~ Chairperson shall either:

1. choose an applicant(s) for appointment, or

2. ask the ~~Tribal Secretary's Office~~Secretary to ~~re-repost the~~ notice ~~the~~

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- ~~vacancy~~of Vacancy because of an ineligible, unqualified, or under qualified ~~applicants~~applicant pool.
- c. Once the Chairperson has made a selection, he or she shall forward the list of qualified applicants along with his or her selected applicant(s) to all Oneida Business Committee members. Based on the information provided, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting, either accept or reject the Chairperson's selected applicant(s).
- ~~e. Forward choice of applicants to all Council members prior to appointment:~~
- ~~1. Council members may accept the Tribal Chairperson's selected applicants, or~~
 - ~~2. Reject an applicant by~~ 1. If the Chairperson's applicant(s) are rejected by the Oneida Business Committee, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting:
 - A. Approve another applicant from the list of qualified applicants; or
 - B. Return the Vacancy to the Chairperson with direction to prepare another recommendation; or
 - C. Direct the Vacancy to be re-posted.
- 6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the ~~entity~~ shallEntity vest upon taking the oath. The ~~Tribal~~ Secretary shall notify the chosen persons when they should appear for taking the oath.
- ~~a. Originals~~The Secretary shall maintain originals of the signed oath ~~shall be maintained by the Tribal Secretary's Office.~~
 - ~~b. Copies~~The Secretary shall forward copies of the oath ~~shall be forwarded~~ to the new ~~member~~Member and the ~~entity~~Entity.
 - c. Wording of oaths ~~shall~~must be approved by the Oneida Business Committee and kept on file by the ~~Tribal Secretary's Office~~Secretary.
 1. The following oath is the standard oath to be used unless a specific oath for the ~~entity~~Entity is pre-approved by the Oneida Business Committee:

I, ~~♣(name♣)~~, do hereby promise to uphold the laws and regulations of the Oneida Tribe ~~of Indians of Wisconsin~~, the General Tribal Council, and the ~~Tribal~~Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the ~~♣entity~~(Entity name~~♣)~~, and shall make all recommendations ~~shall be made~~ in the best interest of the Oneida Tribe as a whole.
 - d. Revisions of oaths ~~shall~~must be approved by the Oneida Business Committee prior to usage.
 - e. All oaths ~~shall~~must be sufficient to make the appointee aware of ~~their~~his or her duty to the ~~Oneida~~ Tribe ~~and~~ as ~~members~~a Member of the ~~entity~~Entity.
- 6-4. ~~The Tribal Secretary shall notify all applicants of the final status of their application. The Tribal~~The Chairperson shall forward a list of all applicants to the ~~Tribal~~ Secretary and the final decision regarding the selection after the procedures in ~~see~~Article 6-2 are completed. ~~Provided~~

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~~that, the Tribal Secretary shall~~ The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include ~~on the notice to the applicant~~ the following paragraph:

~~A~~The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.®

6-5. Termination of Appointment. Appointed Members of Entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Chairperson, a Member of an appointed Entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds majority vote of the entire Oneida Business Committee.

a. An Appointed Entity may bring a request for termination of a Member to the Oneida Business Committee by asserting the appointed Member has failed to fulfill his or her responsibilities to the Tribe as a Member and there is cause for termination based on one (1) or more of the following causes for termination:

2. Failure to meet and maintain the requisite qualifications as identified in the Entity's bylaws.

3. Breach of confidentiality.

4. Accumulation of three (3) or more unexcused absences from required meetings or other Entity responsibilities in the Member's term, where an absence is unexcused if the appointed Member fails to provide twenty-four (24) hours of notice of an anticipated absence.

5. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.

2-6. Any other cause for termination established in the Entity's by-laws.

b. The Oneida Business Committee's decision to terminate is a final and binding decision; there is no avenue for appeal of a termination of Appointment approved by the Oneida Business Committee.

Article VII. ~~A~~The Oneida Tribe of Indians of Wisconsin **Elected Entities**

7-1. All Members of elected Entities must have been nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Oneida Election Law, except for Members appointed to elected Entities pursuant to Article I.4.C. of the Entity's by-laws.

a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

7-2. All other processes must be as directed in the Oneida Election Law. In addition to these processes, all applicants must be notified of the final results of the election. Notices to those elected must include the following:

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~~A~~The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.®

~~6-5. Termination of Appointment. Appointed members of entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Tribal Chair, an appointed member of an entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds majority vote of the entire Oneida Business Committee.~~

~~Article VII. Elected Positions~~

~~7-1. All elected positions, unless otherwise noted in the by laws of the entity, shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Oneida Election Law. Provided that, when the Election Board notifies a petitioner or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included:~~

~~A~~The Oneida Tribe of Indians of Wisconsin reports all income paid by the Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.®

~~7-2. All other processes shall be as directed in the Oneida Election Law.~~

~~7-3. All elected positions are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the entity shall~~Entity vest upon taking the oath.

a. ~~Originals~~The Secretary shall maintain originals of the signed oath ~~shall be maintained by the Tribal Secretary's Office.~~

b. ~~Copies~~The Secretary shall forward copies of the oath ~~shall be forwarded~~ to the new ~~member~~Member and the ~~entity~~Entity.

c. Wording of oaths ~~shall~~must be approved by the Oneida Business Committee and kept on file by the ~~Tribal Secretary's Office~~Secretary. The following oath is the standard oath to be used unless a specific oath for the ~~entity~~Entity is pre-approved by the Oneida Business Committee:

I, ~~♣(name♣)~~♣(name♣), do hereby promise to uphold the laws and regulations of the Oneida Tribe ~~of Indians of Wisconsin~~, the General Tribal Council, and the ~~Tribal Tribe's~~ Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the ~~♣(entity name♣)~~♣(entity name♣) and ~~shall make~~ all recommendations ~~shall be made~~ in the best interest of the Oneida Tribe as a whole.

d. Revisions of oaths ~~shall~~must be approved by the Oneida Business Committee prior to usage.

e. All oaths ~~shall~~must be sufficient to make the appointee aware of their duty to the Tribe ~~and as members~~Members of the ~~entity~~Entity.

Article VIII. By-Lawslaws of Boards, Committees and Commissions

8-1. By ~~Laws~~laws of all Boards, Committees and Commissions ~~shall~~must conform to this

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outline. All existing ~~entities~~Entities must comply with this format and present by-laws for adoption within a reasonable time after creation of the ~~entity, or within a reasonable time after adoption of this policy.~~Entity. By-laws must contain this minimum information, although more information is not prohibited.

8-2. Specifically excepted from this ~~article~~Article are Task Forces and Ad Hoc Committees. However, these ~~entities~~Entities must have, at a minimum, mission or goal statements for completion of the task.

8-3. ~~There shall be~~All by-laws must contain the following Articles:

- a. Article I. Authority.
- b. Article II. Officers
- c. Article III. Meetings
- d. Article IV. Reporting
- e. Article V. Amendments

8-4. ~~Sections~~Sub-articles. Articles ~~shall~~must be divided into ~~"Sections" as set out~~the sub-articles provided below.

a. "Article I. Authority" ~~consists~~is to consist of the following information:

1. Name. ~~All entities should list~~State the full name of the ~~entity~~. ~~In addition, there should be listed~~Entity and any short name that will be officially used.
2. Authority. ~~This section should state the citation and~~State the name, ~~if any,~~ of the creation document and provide the citation for such creation document, if any.
3. Office. ~~There should be listed~~Provide the official office or post box of the ~~entity~~Entity.
4. Membership. ~~The~~Provide the following information ~~should be in this section~~:
 - A. Number of ~~members~~Members;
 - B. ~~How~~Whether the Entity is an elected or appointed; body and how Members are elected or appointed;
 - C. How ~~vacancies~~Vacancies are filled
 - D. The requisite qualifications for Membership.
 - E. Causes for termination or removal, if any, in addition to those contained under Article 6-5.a. hereof and the Removal Law.
5. Stipends. Provide a comprehensive list of ~~the members~~all Stipends Members are eligible to receive and the requirements for collecting each Stipend, if any in addition to those contained in this Policy.

b. "Article II. Officers" ~~consists~~is to consist of the following information:

1. Chair and Vice-Chair. This section creates the positions of the ~~entity~~Entity. Other positions may also be created here.
2. Chair duties. Because of the importance of this position, ~~those~~specifically list the chairperson's duties and limitations ~~should be specifically listed.~~
3. Vice-Chair duties. Because of the importance of this position, ~~those~~specifically list the vice-chairperson's duties and limitations ~~should be specifically listed.~~
4. Additional Offices and Duties. ~~There should be~~Include additional ~~sections as~~

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- needed sub-articles to specifically list duties and limitations for every office created in subsection sub-article 1 above.
5. How chosen. ~~There should be specifically set out~~ Specifically state how a ~~member~~ Member of the ~~entity~~ Entity will be chosen to occupy an ~~official~~ officer's position ~~as set out in this Article~~.
6. Personnel. State ~~entities~~ the Entity's authority for hiring personnel, if any, and the duties of such personnel.
- c. "Article III. Meetings" ~~consists~~ is to consist of the following information:
1. Regular meetings. ~~There shall be listed~~ State when and where regular meetings ~~shall~~ are to be held, and, explain how notice of the agenda, documents, and minutes will be disbursed to the ~~members~~ Members.
 2. Emergency meetings. ~~There shall be listed~~ State how ~~Emergency~~ emergency meetings ~~shall~~ may be called and noticed. The Entity must include the following as part of the requirements for calling an emergency meeting.
In order to justify holding an emergency meeting, the [insert Entity name] must provide the reason for the emergency meeting and why the matter cannot wait for a regularly scheduled meeting. The emergency meeting must be necessary to maintain order and/or protect public health and safety.
 3. Quorum. ~~This section shall list~~ State how many ~~members~~ Members create a quorum.
 4. Order of Business. ~~This section sets out~~ Explain how the agenda will be set up.
 5. Voting. ~~This section should list how~~ Provide voting ~~shall be taken, what requirements, including the requisite percentages shall be needed to pass for passing~~ different items and when, if at all, the chairperson may vote.
- d. "Article IV. Reporting" ~~consists~~ is to consist of the following information:
1. Agenda items ~~shall~~. Agenda items must be in an identified and consistent format.
 2. Minutes ~~shall~~. Minutes must be typed and in a consistent format designed to generate the most informative record of the meetings of the ~~entity~~ Entity.
 3. Attachments. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified ~~to~~ based on the meeting in which they were presented.
 4. Reporting. Entities ~~will~~ shall report to ~~the~~ their Oneida Business Committee member who is their designated liaison. ~~This reporting format may be intermittently~~ as the Entity and the liaison ~~and entity~~ agree to, but not less than ~~that~~ as required in any policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. Reports ~~Entities~~ shall ~~be made within a reasonable time after a meeting is held, or as also make quarterly reports to~~ the Oneida Business Committee ~~member liaison and entity agree. Provided that, annual and semi-annual reports to the agreement is to uphold the ability of the liaison to act as a support to that entity.~~ Oneida General Tribal Council as

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described below:

A. Quarterly Reporting: Entities shall make quarterly reports to the Oneida Business Committee based on the reporting schedule created by the Secretary, approved by the Oneida Business Committee and posted on the Tribe's website. At a minimum, the quarterly reports must contain the following information:

i. Names: Provide the name of the Entity, the Member submitting the report, and the Oneida Business Committee liaison, and a list of the Members and their titles, their term expiration dates and contact information.

ii. Minutes: Any required updates to meeting minutes previously submitted and approved by the Oneida Business Committee including any actions that have been taken and were not included in the meeting minutes previously approved by the Oneida Business Committee.

iii. Financial Reports: Include if specifically requested by the Oneida Business Committee or if required by the Entity's by-laws.

iv. Special Events and Travel During the Reporting Period: Report any special events held during the reporting period and any travel by the Members and/or staff. Travel reports must include the following:

a. Which Member(s) and/or staff traveled;

b. Where the Member(s) and/or staff traveled to and the travel dates;

c. The purpose for the travel and a brief explanation of how the travel benefited the Tribe;

d. The cost of the travel and how the cost of the travel was covered by the Entity; and

e. Whether the cost of travel was within their budget and, if not, an explanation as to why travel costs were incurred that exceeded the Entity's budget.

v. Anticipated Travel for the Upcoming Reporting Period:

Report any travel Members and/or staff are anticipating in the upcoming reporting period. Future travel reports must include the following:

a. Which Member(s) and/or staff will to travel;

b. Where the Member(s) and/or staff will to travel to and the anticipated travel dates;

c. The purpose for the travel and a brief explanation of how the travel will benefit the Tribe;

d. The cost of the travel and how the cost of the travel will be covered by the Entity; and

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e. Whether the cost of travel is within their budget and, if not, an explanation as to why the Entity anticipates incurring travel costs that exceeds its budget.

vi. Goals and Accomplishments: Provide the Entity's annual goals established in its annual report pursuant to section and how the Entity has worked towards achieving such goals during the reporting period.

vii. Meetings: Indicate when and how often the Entity is meeting and whether any emergency meetings have been held. If emergency meetings have been held, indicate the basis of the emergency and topic of the meeting.

viii. Follow-up: Report on any actions taken in response to Oneida Business Committee Oneida Business Committee and/or General Tribal Council directives, if any.

B. Annual Reporting: Entities shall make annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year using the format proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

i. Names: Provide the name and purpose of the Entity, a list of the Members and their titles and the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.

ii. Meetings: Provide when meetings held, where they are held, at what time they are held and whether they are open or closed.

iii. Stipends: Provide the amount of the stipend that is paid per meeting.

iv. Budget: Provide the Entity's original budget for the previous fiscal year, what the actual budget expensed was at the close of the fiscal year, and, if not within the Entity's original budget, an explanation for why the budget was exceeded.

v. Goals and Accomplishments: Provide up to three (3) accomplishments the Entity achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Entity will pursue in the new fiscal year.

vi. Logo and Images: Provide the Entity's logo that may be included in the report and any other pictures or images that the Entity would like to be considered by Secretary for inclusion in the report.

vii. Department Reporting: Entities with oversight of a Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

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- a. Names: Provide the name and purpose of the Department as well as the contact person for the Department and their contact information including phone number, mailing address, email address, and the Department's website.
- b. Budget: Provide the total budget for the previous fiscal year and the funding sources including Tribal contribution, grants, and other sources. Also provide what the actual budget expended was at the close of the fiscal year, and, if not within the Department's original budget, an explanation for why the budget was exceeded.
- c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.
- d. Service Base: Provide a brief description of who the Department serves as its service base.
- e. Goals and Accomplishments: Provide up to three (3) accomplishments the Department achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Department will pursue in the new fiscal year.
- f. Logo and Images: Provide the Department's logo that may be included in the report and any other pictures or images that the Department would like to be considered by Secretary for inclusion in the report.

C. Semi-Annual Reporting: Entities shall make semi-annual reports to the Oneida General Tribal Council based on their activities during the current fiscal year using the format proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

- i. Names: Provide the name of the Entity and, if there have been any changes since the annual report, provide an update of the following information:
 - a. the purpose of the Entity;
 - b. a list of the Entity's Members and their titles;
 - c. the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.
- ii. Meetings: If there have been any changes since the annual report, provide an update of when meetings held, where they are held, at what time they are held and whether they are open or closed.

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iii. Stipends: If there have been any changes since the annual report, provide an update of the amount of the stipend that is paid per meeting.

iv. Goals and Accomplishments: Provide on update on the three (3) strategic goals the Entity named in its annual report.

v. Logo and Images: Provide any pictures or images that the Entity would like to be considered by Secretary for inclusion in the report and, if the Entity's logo has changed since the annual report, provide the new logo that may be included in the report.

vi. Department Reporting: Entities with oversight of a Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

a. Names: Provide the name of the Department and, if there have been any changes since the annual report, provide an update of the Department's purpose and/or the contact person for the Department and their contact information including phone number, mailing address, email address, and the Department's website.

b. Budget: Provide the total budget for the current fiscal year and the funding sources including Tribal Contribution, grants, and other sources.

c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.

d. Logo and Images: Provide any pictures or images that the Department would like to be considered by Secretary for inclusion in the report and, if the Department's logo has changed since the annual report, provide the new logo that may be included in the report.

e. "Article V. Amendments" ~~consists~~is to consist of:

1. Amendments to By-laws. ~~There should be described~~Explain how amendments to the by-laws ~~shall take place. Provided~~may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy. ~~Provided further, that amendments are~~ and must be approved by the Oneida Business Committee prior to implementation.

Article IX. Minutes

9-1. All minutes ~~shall~~must be submitted to the ~~Tribal Secretary's Office~~Secretary within a reasonable time after approval by the ~~entity~~Entity.

9-2. Actions taken by an ~~entity~~Entity are valid when minutes are approved, provided that, minutes are filed ~~according to~~in accordance with this Article, and ~~any specific directions~~

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~~within the Entity's~~ approved by-laws.

9-3. No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an ~~entity~~Entity unless specifically required by the by-laws of that ~~entity~~Entity.

9-4. In the event of dissolution of an ~~entity~~Entity, all files and documents are required to be forwarded to the ~~Tribal Secretary's Office~~Secretary for proper storage and disposal.

Article X. Dissolution of Entities

10-1. ~~All entities~~Entities of the Tribe ~~shall~~may be dissolved according to this Article. ~~Provided that other; however, additional~~ specific directions may be included ~~within~~in an Entity's by-laws.

10-2. A ~~task force~~Task Force or ~~ad hoc committee~~Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a ~~task force~~Task Force or ~~ad hoc committee~~Ad Hoc Committee ~~shall~~must be forwarded to the ~~Tribal Secretary's Office~~Secretary for proper disposal within two (2) weeks of dissolution.

10-3. All other ~~entities of the Tribe~~Entities ~~shall~~may only be dissolved ~~only~~ by motion of the Oneida General Tribal Council or the Oneida Business Committee. ~~provided that an Entity created by the General Tribal Council may only be dissolved by a motion of the Oneida General Tribal Council.~~ Unless otherwise indicated, the materials generated by these ~~entities~~Entities ~~shall~~must be forwarded to the ~~Tribal Secretary's Office~~Secretary for proper disposal within two (2) weeks of dissolution.

10-4. All ~~Chairpersons~~chairpersons and ~~Secretaries~~secretaries of dissolved ~~entities~~Entities shall ~~be responsible for closing~~close out open business of the ~~entity~~Entities and ~~forwarding~~forward materials to the Secretary.

Article XI. Stipends, Reimbursement and Compensation for Service

11-1. Compensation and reimbursement for expenses ~~shall~~must be as set out in this Article and according to procedures for payment as set out by the ~~Oneida Tribe of Indians of Wisconsin~~.

11-2. The ~~Oneida~~ Tribe recognizes that persons serving on ~~entities~~Entities of the Tribe, ~~whether elected or appointed,~~ incur some expense. Therefore, the Tribe, in order to attract persons to serve on ~~entities~~Entities, shall pay ~~stipends~~Stipends to these ~~members~~Members in accordance with this Article.

11-3. *Meeting Stipends for Members of Appointed ~~Members~~Entities.* Except as provided in sub-article (a) and unless otherwise declined by the ~~entity through its bylaws~~Entity, or declined by a ~~member~~Member(s), appointed ~~members~~Members serving on ~~entities~~Entities ~~shall~~appointed Entities are to be paid a ~~stipend~~Stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that ~~entity~~Entity. ~~Provided that the~~Entity. Such meeting ~~lasts~~must last for at least one (1) hour and ~~that members~~Members collecting ~~stipends~~Stipends must be present for at least one (1) hour of the meeting.

(a). Members serving on the Oneida Child Protective Board ~~shall be~~are exempt from the \$50 ~~stipend~~Stipend per month limitation and ~~shall~~are to receive a \$50 ~~stipend~~Stipend for each meeting held in accordance with 11-3.

11-4. *Meeting Stipends for Members of Elected ~~Members~~Entities.* Unless otherwise declined by

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the ~~entity through its bylaws~~Entity, or declined by a ~~member~~Member(s), ~~elected~~Members serving on ~~entities shall~~elected Entities are to be paid a minimum ~~stipend~~Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that ~~entity~~Entity for at least one (1) hour, regardless of the length of the meeting. Members collecting ~~stipends must~~Stipends shall be present for at least one (1) hour of the meeting, regardless of the length of the meeting.

11-5. The Oneida Business Committee shall periodically review the amounts provided for meeting ~~stipends~~Stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this Policy.

11-6. ~~Conferences and Training. A member of any entity, elected or appointed, shall be reimbursed in accordance with the Tribal policy for travel and per diem, for attending a conference or training. Provided that:~~If an Entity, other than the Oneida Gaming Commission, fails to comply with the requirements of this Policy, the Oneida Business Committee may suspend the Entity's Members' Stipends with payment of Stipends resuming moving forward once the Entity has demonstrated to the satisfaction of the Oneida Business Committee that it has attained compliance herewith.

a. (If the Oneida Gaming Commission fails to comply with the requirements of this Policy in regards to requirements that are not matters governed by the Oneida Nation Gaming Ordinance, the Oneida Business Committee may impose a) A member shall fine on any/all Member(s) found to be in noncompliance with this Policy. The fine must be an amount of no less than \$50 but not more than \$100. In addition, either in lieu of the fine or in addition to the fine, the Oneida Business Committee may suspend all employment benefits that are not essential to the Member's employment requirements as a condition of gaming licensing, for example, non-essential travel.

11-7. Conferences. A Member of any Entity must be reimbursed in accordance with the Oneida Travel and Expense Policy for travel and Per Diem for attending a Conference, provided that:

a. A Member is eligible for a \$100 stipend~~Stipend~~ for each full day the ~~member~~Member is present at the ~~conference or training~~Conference, when attendance at the ~~conference~~Conference or training is required by law, ~~bylaw~~by-law or resolution.

(b). A member shall~~Member is~~ not ~~be~~ eligible for a ~~conference and training stipend~~Conference Stipend if that ~~training~~Conference is not required by law, ~~bylaw~~by-law or resolution.

(c). No stipend~~Stipend~~ payments ~~shall~~may be made for those days spent traveling to and from the ~~conference~~Conference or training.

11-8. 11-7. All members~~Members~~ of ~~entities shall be~~Entities are eligible for reimbursement for normal business expenses naturally related to membership in the ~~entity~~Entity.

11-9. 11-8. Task Force members and members and Ad Hoc Committee Members and Members of subcommittees ~~shall be~~are not ~~be~~ eligible for ~~stipends~~Stipends unless a specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

Article XII. Confidential Information

12-1. The ~~Oneida~~ Tribe is involved in numerous business ventures and governmental functions

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where it is necessary that private information be kept in the strictest confidence to assure the continued success and welfare of the Tribe. It is in the best interest of the ~~Oneida~~ Tribe that all ~~officials~~Members maintain all information in a confidential manner ~~all information~~, whether of historical, immediate, or future use or need. The ~~Oneida~~ Tribe desires that all ~~officials~~Members who have access to the ~~Oneida~~ Tribe's confidential information be subject to specific limitations in order to protect the interest of the ~~Oneida~~ Tribe. It is the intention of the ~~Oneida~~ Tribe that no persons engaged ~~in~~ by the Tribe, nor their relatives or associates, benefit from the use of confidential information.

12-2. Confidential information means all information or data, whether printed, written, or oral, concerning business or customers of the ~~Oneida~~ Tribe, disclosed to, acquired by, or generated by ~~officials~~Members in confidence at any time during their elected or appointed term or during their employment.

12-3. Confidential information ~~shall~~must be considered and kept as the private and privileged records of the ~~Oneida~~ Tribe and ~~will~~may not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

12-4. ~~An official~~A Member will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the ~~Oneida~~ Tribe ~~shall be~~is entitled to seek an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the Member's relationship with the ~~Oneida~~ Tribe and the ~~entity~~Entity.

12-5. ~~Upon completion or termination of his/her elected or appointed term of membership in an entity, for any cause whatsoever, the official will~~Members shall surrender to the ~~Oneida~~ Tribe, in good condition, all records kept by the ~~employee~~Member pertaining to Entity membership upon completion of their term of membership, for any cause whatsoever.

12-6. No ~~official shall~~Member may disclose confidential information acquired by reason of his/her relationship or status with the ~~Oneida~~ Tribe for his/her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

Article XIII. Conflicts of Interest

Subpart A. General.

13-1. The ~~Oneida~~ Tribe recognizes the ability of all persons to serve on ~~entities of the Oneida Tribe~~an Entity. However, it is also recognized that the delegated authority and responsibilities of an ~~entity~~Entity may cause conflict with membership on other ~~entities~~Entities or employment.

13-2. ~~It is the policy of the Oneida~~The Tribe ~~to~~shall request ~~a candidate~~all candidates to disclose possible conflicts of interest prior to election or appointment in order to allow ~~the~~any potential conflicts to be resolved in a timely manner.

13-3. ~~Officials~~Members shall disclose and resolve conflicts of interest in a reasonable and timely manner. Failure to resolve conflicts ~~shall~~may result in removal from office ~~for~~from an elected ~~officials~~Entity and may result in termination ~~of appointment for~~from an appointed ~~officials~~Entity. All applicants shall submit, with the ~~application~~Application forms, a signed conflict of interest declaration disclosing all known conflicts.

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13-4. This ~~article~~Article sets forth specifically prohibited conflicts of interests. However, for any individual candidate or ~~member on~~Member of an ~~entity~~Entity, additional conflicts may arise within the by-laws of that ~~entity~~Entity or employment relationships.

13-5. No ~~official shall~~Member may act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a ~~member~~Member in a board, committee or commission, or the like without first disclosing such activity to determine possible conflicts of interest.

Subpart B. Employment Interests.

13-6. No ~~official shall~~Member may hold office in an ~~entity~~Entity which has authority over the area in which the ~~official~~Member is employed by the ~~Oneida~~ Tribe or elsewhere. The ~~Oneida~~ Tribe recognizes the ability of all persons to serve on ~~entities~~Entities of the ~~Oneida~~ Tribe, ~~however, but also~~ recognizes the conflict arising out of membership on an ~~entity~~Entity and employment in an -area over which the ~~entity~~Entity has authority.

13-7. Employment is defined for this subpart as that area which the employee supervises or is supervised in regards to a specific subject matter.

13-8. Authority of an ~~entity~~Entity is defined for this subpart as that area over which the ~~entity~~Entity has subject matter jurisdiction delegated either by the Oneida Business Committee or ~~the~~ Oneida General Tribal Council, and for which ~~that~~such authority may be regulatory, oversight, or otherwise.

Subpart C. Financial Interests, Investments, and Gifts.

13-9. No ~~official~~Member, or their ~~immediate family~~Immediate Family, may have a financial interest in any transaction between the ~~entity~~Entity and an outside party ~~where the official has a financial or familial relationship~~.

13-10. ~~The following words are defined for the purposes of this subpart:~~

~~a. A Financial interest means any profit sharing arrangements, rebates, payments, commissions, or compensation in any form, and shall include any form of ownership, regardless of ability to control the activities of the business. Provided that, this shall not include ownership of shares which, other than in combination with others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.~~

~~b. A Transaction means any activity wherein a provider of goods and/or services is compensated in any form.~~

~~c. An Immediate family means the mother, father, sister, brother, daughter, son, granddaughter, grandson, grandfather, grandmother and these relationships with any spouse.~~

~~13-11.~~ As referred to in this Subpart, ~~entity includes~~ C. for the purposes of defining conflicts, Entity includes the programs or enterprises over which the ~~entity~~Entity has delegated authority.

~~13-12. Officials~~ 11. Members shall avoid personal investment in any business with which the ~~Oneida~~ Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, ~~however,~~ an investment by ~~an official~~ a Member in a business with which the ~~Oneida~~ Tribe has dealings is permissible if the Oneida Business Committee or

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other delegated authority determines in writing that:

a. the investment ~~is not made or~~ cannot be considered to have been made on the basis of confidential information; and

b. the investment cannot be expected to adversely affect or influence the ~~official's judgement~~ Member's judgment in the performance of any services or obligations on behalf of the ~~Oneida~~ Tribe.

~~13-13. Officials shall~~ 12. Members may not use their relationship with the ~~Oneida~~ Tribe to exercise undue influence to obtain anything which is not freely available to all prospective purchasers.

~~13-14. No official shall~~ 13. Members may not accept gifts, payments for personal gain, opportunities to invest, opportunities to act as an agent, a consultant, or a representative for actual or potential purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct or indirect benefit from any actual or potential purchaser, sales source, contractor, consultant, customer, or supplier.

~~13-15. No official shall~~ 14. Members may not accept any gift, entertainment, service, loan, promise of future benefits or payment of any kind which the Oneida Business Committee, or other delegated authority, determines may adversely ~~affects~~ affect or influence ~~his/her judgement~~ the Members' judgment in the performance of any services, duties, obligations or responsibilities to the ~~Oneida~~ Tribe, or ~~impairs~~ may impair confidence in the ~~Oneida~~ Tribe and the Tribe's Entities.

~~13-16~~ 15. Notwithstanding the foregoing, ~~however, officials~~ Members may accept or provide business-related meals, entertainment, gifts or favors when the value involved is insignificant and the Oneida Business Committee or other delegated authority has determined that it clearly will not place him ~~or~~ her under any obligation.

Subpart D. Competition ~~With The Oneida Tribe~~

~~13-17. No official shall enter into competition with the Oneida Tribe.~~

13-16. Members shall not enter into competition with the Tribe ~~in~~ regarding the purchase or sale of any property, property rights or property interests, without prior consent of the ~~Oneida~~ Tribe.

~~13-18. An official~~ 17. A Member may enter into competition with the ~~Oneida~~ Tribe ~~where~~ when the activity engaged in is approved through an Oneida entrepreneur development program or other similar Oneida program and does not otherwise violate this ~~policy~~ Policy.

Subpart E. Use ~~Of Tribal~~ of the Tribe's Assets.

~~13-18. 13-19.~~ All bank accounts for ~~tribal~~ the Tribe's funds ~~shall~~ must be maintained in the name of the ~~Oneida~~ Tribe and will be reflected on the ~~Oneida~~ Tribe's books in accordance with the Generally Accepted Accounting ~~Procedures~~ Principles.

~~13-20. 13-19.~~ Each ~~official~~ Member shall comply with the system of internal accounting controls sufficient to provide assurances that:

- a. all transactions are executed in accordance with management's authorization; and
- b. access to assets is permitted only in accordance with management's authorization; and
- c. all transactions are recorded to permit preparation of financial statements in conformity with ~~generally accepted accounting principles~~ the Generally Accepted Accounting Principles or other

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applicable criteria.

~~13-20. 13-21.~~ Any records created or obtained ~~while as an official~~ a Member of an entity of the Oneida Tribe is Entity are the property of the Oneida Tribe and can only be removed or destroyed ~~by approval from~~ if approved by the Entity via a majority vote of a quorum of the entity Entity at a duly called meeting. All removal or destruction of documents must be ~~made~~ conducted in accordance with the Open Records and Open Meetings ~~law~~ Law.

Subpart F. Disclosure.

~~13-22. 13-21.~~ Each ~~official~~ Member shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Oneida Tribe by completely filling out the ~~application~~ Application for membership or informing the Oneida Business Committee or other designated authority after election or appointment of a conflict arising during membership on an entity Entity.

Subpart G. Reporting.

~~13-22. 13-23.~~ All conflicts or potential conflicts that arise during membership on an entity ~~shall~~ Entity must be immediately reported to the ~~Tribal~~ Secretary of the Oneida Tribe. Upon receiving information of a potential conflict of interest, the ~~Tribal~~ Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Oneida Tribe regarding the status of the ~~official~~ Member.

~~13-24. 13-23.~~ Any evidence of noncompliance with any ~~policy~~ Policy regarding the use of ~~tribal~~ the Tribe's assets ~~shall~~ must be immediately reported to the internal audit staff. If the internal audit staff finds evidence of noncompliance, they shall notify the Oneida Law Office ~~of~~. The Oneida Business Committee and/or the Oneida Tribe, who will Law Office shall then make a determination of further action to be taken, if any.

Subpart H. Enforcement ~~And~~ Penalties.

~~13-24. Members 13-25. Officials~~ found to be in violation of this ~~policy~~ Policy may be removed pursuant to the Removal Law, if a Member of an elected Entity, or have their appointment terminated, if a Member of an appointed Entity.

~~13-26. a. A Member who has been terminated or removed is ineligible for Appointment or election to any Entity for at least one (1) year from the effective date of the termination or removal.~~

~~13-25.~~ Candidates for appointment or election to an office found to be in violation of this ~~policy~~ Policy may be disqualified from taking office.

End.

Adopted - BC-8-2-95-A

Amended - BC-5-14-97-F

Emergency Amendments - BC-03-06-01-A (expired)

Emergency Amendments - BC-04-12-06-JJ

Emergency Amendments - BC-11-12-09-C

Emergency Amendments Extension - BC-05-12-10-I (expired)

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97 Amended - BC-9-27-06-E (permanent adoption of emergency amendments)
98 Amended – BC-09-22-10-C
99 | Amended -
100
101



Legislative Operating Committee

October 21, 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:

- Review and accept the analysis; consider directing the LOC to prepare the public meeting packet for a public meeting to be held on December 3, 2015.

Chapter 17 Administrative Rulemaking Thotihá·tú lutyánłashu·níhe?

they are the leaders, they are making the laws, policies and rules

17.1. Purpose and Policy
17.2. Adoption, Amendment, Repeal
17.3. Definitions
17.4. General
17.5. Preparation of Proposed Rules
17.6. Public Comment Period on Proposed Rules

17.7. Oneida Legislative Operating Committee Certification of
Procedural Compliance and Business Committee Review
17.8. Effective Date of Rules
17.9. Emergency Rules
17.11. Judicial Review of a Rule

<i>Analysis by the Legislative Reference Office</i>					
Title	Administrative Rulemaking				
Requester	LOC (prior term)	Drafter	Krystal John	Analyst	Tani Thurner
Reason for Request	To ensure consistency in how Tribal boards, committees, commissions, departments and officials develop and implement rules in furtherance of the laws and policies they are delegated authority to implement/enforce.				
Purpose	This Law is being requested in order to develop a consistent process for promulgating Tribal Rules, which are created in order to further the goals established in a Tribal law.				
Authorized/ Affected Entities	Legislative Operating Committee (LOC) and Legislative Reference Office (LRO) are given duties under this Law; all Tribal boards, committees, commissions, departments and officials that are delegated “Rulemaking Authority” will be affected when developing or amending rules.				
Due Process	Judicial Review of Rules				
Related Legislation	The Legislative Procedures Act (LPA) identifies a similar process for the promulgation and adoption of Tribal laws.				
Enforcement	Judicial Review of Rules, Rules can be challenged if they are not promulgated in accordance with this Law.				

Overview

The purpose and policy of the Administrative Rulemaking Law (the Law) are to provide a process for adopting and amending Administrative Rules (Rules) that is efficient, effective and democratic, and to ensure that authorized agencies act responsibly and consistently when enacting and revising Rules. [17.1-1 and 17.1-2]

The Tribe currently has a law in place (the LPA) that establishes a process and requirements for the adoption and amendment of Tribal laws. This proposed Law establishes a process and requirements for adopting and amending Rules promulgated in furtherance of those laws. The LPA was adopted by General Tribal Council (GTC) and can only be amended by GTC; this Law would be adopted by the Oneida Business Committee (OBC) and could only be amended or repealed by the OBC. [17.2-1 and 17.2-2]

The Rulemaking Process

The process for developing, drafting and adopting a Rule is somewhat similar to the process for developing and drafting a Law, with some differences:

- Instead of the LOC, each Authorized Agency is responsible for preparing its own Rules, conducting the required public meetings; receiving comments during the public comment periods, and reviewing/considering all comments received. [17.4 and 17.6]
- A Rule officially goes into effect after the LOC certifies that it was promulgated in accordance with this Law – it does not have to be adopted by OBC/GTC resolution. [17.7]
- The OBC does not review a Rule until after it has been certified and gone into effect. This Law sets out a detailed process for the OBC to repeal/change a Rule within a certain period

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of time. [17.7] However, there is one exception – the OBC is still responsible for adopting emergency Rules before they go into effect. [17.9]

- This Law adds standards of review – i.e. identifying when a person can appeal actions taken pursuant to a Rule, and when the Judge can reverse or modify an action taken. [17.11 and 17.12]
- This Law also adds a section identifying requirements for seeking Judicial Review of a Rule (i.e. seeking to have the Judiciary determine whether a Rule is valid) – and enabling the Judiciary to strike down part or all of a Rule if it violates the Tribal Constitution or is otherwise unlawful, or if it exceeds the Authorized Agency’s Rulemaking authority.)

What is a Rule?

This law contains a detailed definition for a Rule. For comparison, the following shows the difference between the definition in this Law for “Rule” and the LPA’s definitions for “Law” and “Legislation”:

Proposed Law [17.3-1(f)]	LPA [16.3-1(e) and (f)]
“Rule(s)” means any exercise of Rule Making Authority by an Authorized Agency in the form of a rule, regulation, policy or any other tool designed to exercise the Authorized Agency’s delegated Rule Making Authority in order to implement, interpret and/or enforce a law or policy of the Nation. A Rule does not include statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency or which do not affect the private rights or interests of individuals outside of the agency.	“Law” means an adopted Tribal code, act, statute or ordinance. “Legislation” means a proposed law or proposed amendment to an existing law.

Generally, laws set out broad requirements; but more specific, detailed requirements are needed to actually carry out those requirements. Various Tribal laws delegate authority to specific Tribal “agencies” (which would mean boards, committees, commissions, departments or officers of the Tribe) to administer and/or enforce that law; and this Law authorizes those agencies to develop and adopt rules, in furtherance of those responsibilities.

A rule, as defined here, affects the private rights or interests of individuals outside of the agency – standard operating procedures, and other internal processes and requirements concerning internal management of an agency, are not considered rules. [17.3-1(f)]

Who can propose/request that a Rule be developed?

Although any person can request the development or amendment of any Tribal law, only Authorized Agencies may promulgate Rules; and only Rules interpreting a law that the Authorized Agency has been delegated authority to administer or enforce. Rules may not exceed the Rule Making Authority given to the Authorized Agency by that law. This Law does not confer rule making authority. [17.4-1]

Public Meeting/Comment Requirements for Rules

This Law requires public meetings to be held before a Rule can be enacted. The Authorized Agency must publish notice of a public meeting in the Oneida Register and in the Kalihwisaks. [17.6-2(a)] All persons attending a public meeting for a proposed Rule are required to register at the meeting – not just those who provide spoken comments. [17.6-2(f) and LPA 16.8-3(b)]

Public Meetings must be audio recorded. [17.6-2(f)] An Authorized Agency may extend

An “Authorized Agency” is any Tribal board, committee, commission, department or officer that has “Rulemaking Authority” – i.e. authority delegated in a Tribal law to implement, interpret and/or enforce a Tribal law or policy. [17.3-1(a) and (g)]

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a public comment period as it deems appropriate, by posting an amended Notice of Public Meeting before the original comment period ends. [17.6-2(g)]

After a public comment period ends, this Law requires the Agency to prepare a memo identifying every public comment received, along with the Agency’s response to each comment. This memo accompanies the proposed Rule when it is submitted to the LOC for certification, and to the OBC for review. [17.10-1(c)]

Submission Materials

When a Rule is presented for public comment, LOC certification or OBC review, it is required to be accompanied by supporting materials, which are combined into one summary report, which must provide an overview of the Rule, [17.5-2] and include:

- **A statement of effect** – this is a legislative and legal analysis, prepared by the Legislative Reference Office (LRO) upon request from the Agency [17.5-2(d)]; which explains the effects the Rule would have on the Tribe. [17.2-5(h)]
- **A financial analysis** – this is prepared by the Authorized Agency, and must include a report from every entity that may be financially affected by the Rule. [17.3-1(c)] If an entity does not provide the requested information within 10 business days the financial analysis may still be submitted, noting which entities were non-responsive to their request. [17.5-2(e)(1)]
- **Public Comment Changes.** As part of the summary report, an Authorized Agency must include “a description of any changes made to the proposed Rule based on the public comment period (if applicable).” Agencies are not required to identify any changes made that were not based on the public comment period. [17.5-2.]

Emergency Rules

This Law allows for Rules to be enacted on an emergency basis. Like emergency laws, an emergency Rule can be adopted without a public comment period being held first, and would be in effect to up to six months, but eligible for a one-time extension of up to six extra months. [17.9]

As with emergency legislation, a proposed emergency rule is first submitted to the LOC and is adopted by the OBC, but for emergency Rules, the LOC is not required to forward the proposal to the OBC; if the LOC determines there is not a valid emergency, it may decline the request.

This Law also specifically authorizes the OBC to make changes to a proposed emergency Rule before adopting it, and adds that if the Authorized Agency does not “support” any revisions made by the OBC, “such concerns may be addressed when the Authorized Agency begins the process for enactment of the permanent Rule.” [17.9-2]

LOC Certification

Each Authorized Agency ultimately adopts its own Rules (except emergency rules), but only after receiving certification from the LOC. Once a Rule has been completely processed and is ready for adoption, the Agency submits the proposed rule, along with the following, to the LOC:

- The Summary Report
- A memo showing the procedural timeline when the requirements of this Law were met)
- Supporting documentation, including: the draft version presented for public comment, the public meeting notice, a redline draft to the current rule (for proposed amendments), minutes from the agency’s meeting where the proposed Rule was considered as an agenda item; and any other supporting information that may be requested by the Legislative Reference Office.

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- A memo identifying every public comment received and the agency’s response to each comment.

- The effective date for the new Rule or amendments to go into effect. [17.10-1.]

Then, if the LOC determines that the Law was promulgated in accordance with this Law, then the LOC issues a written certification stating such, and publishes the Rule on the Oneida Register. [17.7-2]

The effective date of a Rule is determined by the Authorized Agency, and can be any date after the Rule is certified by the LOC. [17.8]

If the LOC is “unable to certify” that the Agency has complied with this Law, the LOC must return the Rule to the Agency with specific feedback as to what procedural requirements were not met. [17.7-2]

OBC Review of Rules

This Law provides a process for the OBC to review a Rule after it has been certified by the LOC and enacted:

- After the LOC certifies a Rule, it must forward the Rule and supporting materials, along with the LOC’s certification, to the OBC for review.
- After review, if the OBC has any concerns or requested revisions, the Authorized Agency “shall work with” the OBC to “address any concerns.”
- The Rule already adopted by the Agency will remain in effect as adopted by the Agency unless:
 - The OBC deems it necessary to repeal the Rule, in which case any Rule in effect prior to the repealed Rule is immediately reinstated, or
 - the OBC provides the agency with written notice of intent to repeal or amend the Rule within 30 days after receiving notice of the Rule, and a revised rule is adopted within six months afterwards. 17.7-3(b).
- If the Agency and the OBC agree upon the necessary changes, the Agency must adopt the Revised Rule as agreed upon by the OBC. An agency has “discretion” to conduct an additional public comment period, but is not required to do so.
- If the Agency and OBC do not reach an agreement as to necessary changes, the OBC may adopt a Revised Rule that incorporates the amendments it deems necessary.

If either the OBC or Agency adopts a revised rule within that six-month period, they must provide a final version of the Rule to the LOC. The LOC must then update the Oneida Register with the Rule. 17.7-3(f)

If neither the OBC nor Agency adopts a revised rule within that six month period, then the OBC is precluded from repealing or amending that Rule. This would mean that if the OBC adopts an amended Rule after the six-month period, the amendments could be subject to a legal challenge.

Contesting a Rule, Judicial Review

The Law adds a one-year statute of limitations for contesting a Rule by claiming that it was not promulgated in accordance with this Law - once a year has passed from the date a Rule goes into effect; that Rule can no longer be challenged on those grounds. [17.11-3]

There is also a three-year statute of limitations to seek judicial review of a Rule. Judicial review enables the Judiciary to declare part or all of a Rule invalid, if “substantial rights of the petitioners have been prejudiced” because the rule is either unlawful, violates the Tribal constitution or exceeds the Agency’s Rulemaking Authority. The only persons that may seek

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judicial review are persons or entities “aggrieved” by the promulgation of a Rule, and they must demonstrate that they suffered an injury in fact, which was caused by the Rule, which directly injures their personal interests, and that finding the Rule invalid would bring relief from the injury in fact, and that the injury in fact is the type of injury protected by the Rule. The three-year statute of limitations does not start running until the date of the injury in fact. [17.11]

Standard of Review for Actions taken Pursuant to Administrative Rules

Any Tribal body hearing an appeal or contest of an action taken pursuant to a Rule; must uphold the action unless it finds that the action either:

- Violated the Tribal Constitution
- Exceeded the agency’s Rulemaking Authority
- Was unlawful, clearly erroneous, arbitrary or capricious, or
- Exhibited a procedural irregularity which would be considered a harmful error, that may have contributed to the final decision; and the decision would have been different otherwise.

If the Tribal body finds that the action did any of those, then the Tribal body must either reverse or modify the action taken; or remand the matter for further consideration, if the action was at the second level of appeal. [17.12]

Rules Already in Effect

After this Law is adopted, any Rules adopted afterwards are valid only if adopted “in substantial compliance” with this Law. Any Rules already in effect when this Law is adopted will remain in effect unless the OBC directs that they be updated, but if they are ever amended, those amendments must follow this law’s requirements. [17.4-3]

This Law also states within 30 business days after this Law is adopted, authorized agencies must forward any existing Rules to the LRO. The LRO is required to publish all such rules on the Register within 30 business days of receiving them. [17.4-3(a)]

New Responsibilities

Every Tribal board, committee, commission, department and officer that is delegated authority in a Tribal law to implement or enforce a Tribal law is now responsible for developing their own rules, conducting public comment periods, creating a fiscal analysis, and preparing various reports, including a memo identifying the procedural timeline, and a memo that contains all of the public comments received, with the Agency’s response to each. [17.5-2 and 17.10-1(a) and (c)]

This Law adds additional responsibilities for the LOC:

- Developing a form and style for Rules, which must be followed by Authorized Agencies. [17.5-1]
- Reviewing submitted materials and certifying a Rule when it has been promulgated in accordance with this Law, and
 - Forwarding certified Rules to the OBC
 - Sending rejected Rules back to the Authorized Agency with specific feedback as to which procedural requirements were not fulfilled. [17.7]
- Publishing certified/final Rules on the Oneida Register. [17.7-2(a) and 17.7-3(f)]
- Reviewing emergency Rules to determine whether there is a valid emergency. [17.9-1]

This Law also adds additional responsibilities for the Legislative Reference Office:

- Creating and maintaining a complete record of all proposed and adopted Rules, including requesting any supporting information. [17.10-1]

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- Creating and updating administrative histories for each rule – identifying the original effective date and the effective date of amendments. [17.10-2]
- Publishing pre-existing Rules, and emergency Rules, on the Register. [17.7-3 and 17.9-5]
- Preparing statements of effect for all Rules, upon request of the Agency. [17.5-2(d)]

Other

This Law only requires Rules to follow the same numbering format as laws; and delegates authority to the LOC to establish additional form and style requirements. [17.5-1]

Rules already in effect when this Law is adopted will remain in effect unless the OBC directs that a Rule be updated “based on this Law’s requirements;” but any future amendments to existing Rules must follow the requirements of this Law. [17.4-3]

The Law requires Authorized Agencies to forward any Rules already in effect to the Legislative Reference Office within 30 days after this law is adopted; and the LRO will publish all such Rules on the Oneida Register within 30 days of receiving them. [17.4-3(a)]

A public meeting has not been held.

Considerations

The following are issues the LOC may want to consider:

- This Law gives authority to authorized agencies, meaning Tribal boards, committees and commissions, officers and departments. However, it is not clear if this would include OBC standing committees, because although those might be committees, they are not elected or appointed, technically. Recommend that this law clarify whether the intent is for this to apply to standing committees – to the LOC in particular, since it is delegated authority under this Law and under the LPA.
- Various existing Tribal laws set out processes or requirements for the adoption of regulations/rules, which will now be in conflict with this Law. It may be beneficial for the LOC to make a policy call determining how to address the numerous conflicting provisions that may exist if this is adopted.
- 17.4-3(a) states that within 30 days after this Law is adopted, Authorized Agencies must forward any existing Rules to the LRO, to publish on the Register. It is recommended that this be removed from the Law and placed in the adopting Resolution, otherwise this Law will contain a provision that is obsolete within two months after this Law is adopted.
- The Law is focused on the delegation of authority to administer a law, but occasionally refers to delegation of rulemaking authority under laws and policies. It may be beneficial to determine whether the intent is to allow rulemaking authority under Tribal policies, and if so, to ensure this Law consistently references both equally. For example, see 17.3-1(g) – ““Rulemaking Authority” means the delegation of authority to Authorized Agencies found in the Tribe’s **laws other than this Law** which allow Authorized Agencies to implement, interpret and/or enforce a **law or policy** of the Tribe.”
- The provisions relating to Judicial Review of a Rule (section 17.11) and Standard of Review (section 17.12) may need additional consideration and it is recommended that a legal review be obtained before this Law is adopted. Various issues include:
 - 17.11-1 states that only “persons or entities aggrieved by the promulgation of a Rule” are entitled to Judicial review. But then it states “to be aggrieved, persons must demonstrate each of the following” – it is not clear how an entity would demonstrate that it is aggrieved.
 - “To be aggrieved, persons must demonstrate each of the following” – this may not be accurate, because those are things that a person must demonstrate during the judicial review in order to have the Rule changed; those are not things a person must demonstrate

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- 222 to show they are aggrieved.
- 223 ○ “17.11-1. Only persons or Entities aggrieved by the promulgation of a Rule under this
- 224 Law, are entitled to judicial review of a Rule by the Oneida Judiciary.” This would
- 225 appear to mean that any currently existing rules are not subject to judicial review, and
- 226 could not be invalidated, even if unconstitutional.
- 227 ○ It is not clear what an “injury in fact” entails.
- 228 ○ It is not clear how a person/entity could demonstrate that the injury in fact is the type of
- 229 injury protected by the Rule - Rules generally are not promulgated to protect persons
- 230 from injuries.
- 231 ○ 17.11-4 states that after the Authorized Agency receives notice “that an appeal has been
- 232 filed regarding a Rule of the said agency” the Agency must submit the record to the
- 233 Judiciary. However, this section is not discussing appealing a Rule, it is about seeking
- 234 Judicial review, which is different from an appeal.
- 235 ○ 17.11-3 states that “No Rule may be contested based on non-compliance with the
- 236 procedural requirements of this Law after one (1) year has elapsed from the effective date
- 237 of the Rule.” However this section discusses judicial review, not contesting a Rule based
- 238 on non-compliance. Noncompliance with procedural requirements is not related to the
- 239 rest of the provisions in this section, which all relate to Judicial review for
- 240 constitutionality, unlawfulness or exceeding an Agency’s Rulemaking Authority.
- 241 Further, this provision does not identify who would have standing to contest a Rule based
- 242 on non-compliance with the procedural requirements of this Law – by comparison, only
- 243 “aggrieved” persons or agencies have standing to seek judicial review.
- 244 ○ This Law does not identify whether judicial review actions are appealable.
- 245 ○ 17.12-2 states that when hearing an appeal or “contest of an action” the hearing body
- 246 must uphold the action unless it exhibited “a procedural irregularity which would be
- 247 considered a harmful error that may have contributed to the final decision and if said
- 248 irregularity were not present, the decision would have been different.” However, this is
- 249 mixing actions and decisions – the hearing body must uphold an action unless the action
- 250 “exhibited a procedural irregularity that may have contributed to the final decision” – It
- 251 would be difficult for judges, let alone the membership, to interpret or understand how
- 252 this applies.
- 253 ○ 17.12-1 states “Any Tribal body hearing an appeal or contest of an action taken pursuant
- 254 to Rules created under Authorized Agencies’ delegated authority and the requirements of
- 255 this Law...” It is not clear why this only applies to Rules created under this Law, or how
- 256 already-existing Rules are affected – is the intent that existing rules could not be
- 257 enforced? Or that action taken under them cannot be appealed? Or that those situations
- 258 would be governed by different rules?
- 259 • The provisions governing how the OBC can amend a Rule may need review:
- 260 ○ An authorized agency has “discretion” to conduct an additional public comment period if
- 261 the OBC requested substantial revisions, but is not required to do so. This appears to
- 262 mean that the Agency is not required to follow the standard process for amending Rules.
- 263 ○ The law is not clear on the process for the OBC to amend a Rule – this Law sets out a
- 264 detailed process for Rulemaking, and if the OBC is authorized to amend a Rule after it
- 265 has been adopted by an Agency, the Law may need to identify which parts of the process
- 266 would be necessary.
- 267 • When the LPA is next amended, it is also recommended that the definition of the Oneida Register
- 268 be revised to state that it includes agency “Rules” instead of agency regulations, to reflect this
- 269 Law.
- 270 • The definition for “Rule” does not clearly explain what a Rule is. There are various issues related
- 271 to this definition and the definition for Rulemaking Authority, including:

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- Various laws and policies give authority to an entity to establish fee or penalty schedules – are those considered Rules?
- How would one be able to tell if the Rule Making Authority exceeds the authority given to the Agency by law? How does one identify if a Rule delegates rulemaking authority?
- Who exactly is delegated authority as an authorized agency – this is particularly important because some Tribal laws identify specific authorization for an entity to establish specific types of Rules relating to the Law, but not all types of Rules relating to the Law.
- 17.4-1 says only Authorized Agencies may promulgate Rules. This could be construed as prohibiting the OBC from promulgating Rules.
- The definition of Rulemaking Authority is “the delegation of authority to Authorized Agencies found in the Tribe’s laws other than this Law which allow Authorized Agencies to implement, interpret and/or enforce a law or policy of the Tribe.” [17.3-1(g)] Then, 17.5-1 states: “In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the form and style required by the Legislative Operating Committee.” Although this looks like it might be giving the LOC rulemaking authority, it is unclear, because that is delegating authority in this Law, not a law “other than this Law”.
- The definition of “Rule” includes the term “rule”, which is circular.
- It may cause confusion to include “rule, regulation, policy” because the law does not define those other terms or how they may be different from a rule.
- The second portion of this definition states what a rule does not include, which could be interpreted to mean that if a Rule includes any of those things, the entire Rule is not applicable to persons outside the agency. It may be easier to understand by just clarifying that internal SOPs and processes are not Rules, and to explain what a Rule *does* include.
- Stating that a Rule does not include “rules” concerning internal management may be confusing – it would be easier to understand this definition if consistent terminology for what is a Law, Policy, Rule, Procedure, Regulation, etc could be established for use in all Tribal law.
- It may be more clear to just state that a Rule is a set of written requirements promulgated by an Authorized Agency in accordance with this Law
- This Law is titled “Administrative Rulemaking” and then the term “administrative Rules” is used in the Purpose and Policy section, and once in the title for 17.4-1. The word “administrative” is not defined and is never used again – just “Rule” For clarity it may be beneficial to explain what an administrative rule is, otherwise, to delete “administrative” altogether and just use “Rule” throughout the Law.
- This Law does not specifically state how Rules would affect the membership – i.e. that any person subject to a Tribal law, would be subject to any Rules established in furtherance of that law, and that rules would have the same force and effect as the Law itself, and/or that persons can be subject to penalty for violations. It may be helpful to identify the effect of Rules on the membership.
- It appears that emergency Rules could not be adopted as quickly as an emergency law, because a Law can be presented for emergency adoption without a fiscal impact statement, but this Law requires a summary report to be presented with a draft emergency Rule; and a fiscal analysis is part of the summary report.
 - For a fiscal analysis, the agency is required to include information submitted by every potentially affected entity, and entities are given ten business days to submit such information - this may hold up the process of a speedy emergency adoption.
 - A statement of effect is also part of the summary report which must be presented with a proposed emergency Rule. The statement of effect is prepared by the Legislative Reference Office, upon request of the Agency. This means the Agency must request the

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statement of effect, wait to obtain it, and then include it in the summary report which is then submitted with the Rule. This may also add to the length of time needed to adopt an emergency Rule.

- Under the LPA, a fiscal impact statement is not required to be provided with the materials that are presented for a public meeting for a proposed law; although it can be included if it is available. By comparison, this Law requires the full summary report (which includes the fiscal analysis) to be attached to a Rule when it is presented for public meeting. This means that the fiscal analysis must be presented with a Rule, for all public meetings. This is a policy call.
- 17.10-1(a)(4) When a Rule is submitted to the LOC for certification, it must include “Minutes from the agency’s meeting during which the proposed Rule was considered as an agenda item” – however, this requirement does not recognize that authorized agencies are not just Tribal boards, committees or commissions – Tribal departments and officers can also promulgate Rules, and Tribal departments, at least generally do not have minutes, meetings or agendas.
- 17.5-2 states that the “Authorized Agency shall prepare a summary report regarding each proposed Rule, which must be attached to the proposed Rule when presented for public comment and for approval through the [LOC] and ultimately the [OBC].” This may be misleading – Rules are presented for LOC certification, not approval, and OBC approval is not required.
- 17.5-1 states: “In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the form and style required by the Legislative Operating Committee.” It may be beneficial to require actual compliance, not substantial compliance. Otherwise, it may be helpful to identify what would be considered “substantial” compliance, since this is allowing entities to deviate somewhat from a Rule.
- 17.6-2(b) requires the published notice to include “information for electronically accessing the summary report” - This only requires that the membership be told how to access materials online, which may cause issues for some members without access to the internet. This is a policy call.
- Section 17-9. Emergency Rules are first submitted to the LOC, who must determine whether there is a valid emergency, and if they determine there is, then they must forward the materials to the OBC, who must then determine whether there is a valid emergency, and if so, must adopt the Rule, with or without revisions. It is not clear why the LOC must first review the Rule to determine whether there is a valid emergency, if the OBC is then going to do the same thing again. Especially when there is an emergency situation where a Rule must be implemented quickly.
- 17.3-1(c) The definition for a financial analysis is word-for-word the same as the LPA’s definition for a fiscal impact statement. But it requires a different process and additional requirements which are not also mentioned in the definition – under this Law, a financial analysis would also include a report from all potentially affected entities, identifying how they would be affected. However, this is not mentioned in the definition.

There are various language-related issues which will be brought to the sponsor for consideration; these may result in additional changes to the draft.

Chapter 17

Administrative Rulemaking

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17.1. Purpose and Policy

17.1-1. *Purpose.* The purpose of this ~~law~~Law is to provide a process for the adoption and amendment of administrative ~~rules~~Rules.

17.1-2. *Policy.* It is the policy of the ~~Nation~~Tribe to ensure:

- (a) There ~~are~~is an efficient, effective and democratic ~~processes~~process for enacting and revising administrative Rules.
- (b) That Authorized Agencies ~~having Rule Making Authority~~ act in a responsible and consistent manner when enacting and revising the administrative Rules ~~of the Nation~~.

17.2. Adoption, Amendment, Repeal

17.2-1. This ~~law~~Law was adopted by the Oneida Business Committee by resolution _____.

17.2-2. This ~~law~~Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

17.2-3. 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.

17.2-4. In the event of a conflict between a provision of this ~~law~~Law and a provision of another law, the provisions of this ~~law~~shallLaw control.

17.2-5. This ~~law~~Law is adopted under authority of the Constitution of the Oneida ~~Nation~~Tribe of Indians of Wisconsin.

17.3. Definitions

17.3-1. This ~~section shall govern~~Section governs the definitions of words and phrases used within this ~~law~~Law. All words not defined herein ~~shall~~are to be used in their ordinary and everyday use.

(a) “Authorized Agency” means any board, committee, commission, department, or officer of the ~~Nation~~Tribe that has been granted ~~Rule Making~~Rulemaking Authority.

(b) “~~Business Day(s)~~” means ~~calendar day(s), unless otherwise specifically stated Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Tribe.~~

(c) “~~Fiscal Impact Statement~~Financial Analysis” means an estimate of the total fiscal year financial effects associated with a proposed Rule ~~and~~prepared by the Authorized Agency proposing the Rule. It includes startup costs, personnel, office, documentation costs, ~~as well as~~ an estimate of the amount of time necessary for an individual or agency to comply with the Rule after implementation.

(d) “Entity” means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the majority of the Tribe’s eligible voters and also any department of the Tribe.

(e) “Oneida Register” means the free legal periodical published on the ~~Nation’s~~Tribe’s website by the Legislative Operating Committee which contains, at a minimum, agency ~~regulations~~Rules, proposed legislation and notices, and either the Oneida Code of Laws or directions to obtain free access to the Oneida Code of Laws.

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(e) “Rule(s)” means any exercise of ~~Rule-Making~~Rulemaking Authority by an Authorized Agency in the form of a rule, regulation, policy or any other tool designed to exercise the Authorized Agency’s delegated ~~Rule-Making~~Rulemaking Authority in order to implement, interpret and/or enforce a law or policy of the ~~Nation~~Tribe. A Rule does not include statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency or which do not affect the private rights or interests of individuals outside of the agency.

(f) ~~“Rule-Making”~~“Rulemaking” Authority means the delegation of authority to Authorized Agencies found in the ~~Nation’s~~Tribe’s laws other than this Law which ~~allow~~allows Authorized Agencies to implement, interpret and/or enforce a law or policy of the ~~Nation~~Tribe.

(h) “Statement of Effect” means a legislative and legal analysis which explains the effects that adopting a Rule would have on the ~~Nation~~Tribe.

(g) ~~“Nation”~~“Tribe” means the Oneida ~~Nation~~Tribe of Indians of Wisconsin.

17.4. General

17.4-1. *Administrative ~~Rule-Making~~Rulemaking*. Only Authorized Agencies may promulgate Rules; this Law does not confer ~~Rule-Making~~Rulemaking Authority. Authorized Agencies shall adhere to the ~~Rule-making~~Rulemaking procedures as provided in this Law. Authorized Agencies may promulgate Rules interpreting the provisions of any law enforced or administered by it; provided that, a Rule may not exceed the ~~Rule-Making~~Rulemaking Authority granted under the law for which the Rule is being promulgated.

17.4-2. *Authorized Agency Solicitation of Comment on General Subject Matter*. For the purpose of soliciting public comment, an Authorized Agency may hold a public meeting on the general subject matter of a possible or anticipated Rule before preparing a proposed Rule. However, a public meeting under this subsection does not satisfy the requirements of Section 17.6 hereof with respect to promulgation of a specific proposed Rule.

17.4-3. *Substantial Compliance*. Any Rule hereafter adopted is valid only if adopted in substantial compliance with this Law, however Rules already in effect at the time of this Law’s adoption ~~will~~ remain in effect unless directed to be updated based on this Law’s requirements by the Oneida Business Committee. Any amendments made to Rules already in effect must follow the requirements of this ~~law~~Law.

(a) Authorized Agencies shall forward to the Oneida Legislative Reference Office any Rules in effect at the time this Law is adopted within thirty (30) ~~days~~Business Days of its adoption and the Oneida Legislative Reference Office shall publish all such Rules in the Oneida Register within thirty (30) ~~days~~Business Days of its receipt thereof.

~~17.4-4. *Statute of Limitations*. No Rule can be contested for purpose of non-compliance with the procedural requirements of this Law, as now or hereafter amended, if one (1) year has elapsed from the effective date of the Rule.~~

17.5. Preparation of Proposed Rules

17.5-1. *Form and Style*. In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the form and style required by the Legislative Operating Committee.

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(a) At a minimum, all Rules must be numbered in the following consistent manner “1-1(a)(1)(A)(i)” where:

- (1) “1-1” means the first section.
- (2) “(a)” means the first subsection.
- (3) “(1)” means the second subsection.
- (4) “(A)” means the third subsection.
- (5) “(i)” means the fourth subsection.
- (6) All other numbering after the fourth subsection must be in a logical manner.

17.5-2. *Summary Report.* The Authorized Agency shall prepare a summary report regarding each proposed Rule, which must be attached to the proposed Rule when presented for public comment and for ~~adoption~~approval through the Oneida Legislative Operating Committee and ultimately the Oneida Business Committee. The summary report must include:

- (a) the name of the proposed Rule;
- (b) a reference to the law that the proposed Rule interprets, along with a list of any other related laws, policies or rules that may be affected by the proposed Rule;
- (c) a brief summary of the proposed Rule and any changes made to the proposed Rule based on the public comment period required by ~~Section 17~~Section 17.6 hereof, if applicable;
- (d) a Statement of Effect for the Rule which the Legislative Reference Office shall prepare upon request by the Authorized Agency; and
- (e) ~~all information available related to how the proposed Rule may affect the the Financial Analysis, for which the Authorized Agency’s budget and any other budgets~~Agency shall send a written request to each Entity that may be affected by the proposed rule. Rule soliciting information on how the proposed Rule would financially affect the Entity; each Entity’s response indicating its financial affects must be included in the Financial Analysis.

(1) If an Authorized Agency does not receive a response from one (1) or more Entities regarding its request for the Entities’ financial affects of the Rule within ten (10) business days of the date of the request, it may submit a Financial Analysis noting which Entities were non-responsive to its request.

17.6. Public Comment Period on Proposed Rules

17.6-1. A proposed Rule, except a Rule promulgated under the emergency Rules exemptions under Section 17.9, must be preceded by ~~notice and~~ a public comment period. ~~The proposed rule and notice for a proposed rule, which must be published on include a public meeting. Nothing in this Section prohibits or restricts the Oneida Register and the notice must consist~~holding of: any other type of community meeting which may be used to gather input on Rules.

- ~~(a) the summary report required under Section 17.5-2;~~
- ~~(b) the date of publication;~~
- ~~(c) the date until which written comments will be accepted, which must be at least thirty (30) days after publication; and~~
- ~~(d) a statement that:~~
 - ~~(1) comments on the proposed Rule will be accepted by the Authorized Agency for at least thirty (30) days after publication of the notice, will be reviewed by the~~

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499 ~~Authorized Agency and, at the Authorized Agency's discretion may be~~
500 ~~incorporated into the proposed Rule before it is presented for adoption; and~~
501 ~~(2) the Authorized Agency may present the proposed Rule to the Oneida~~
502 ~~Legislative Operating Committee, which once approved, will forward to the~~
503 ~~Oneida Business Committee for adoption without conducting public meeting,~~
504 ~~unless a request for a public meeting, which must be signed by at least five (5)~~
505 ~~Citizens of the Nation affected by the proposed Rule, is received by the~~
506 ~~Authorized Agency within thirty (30) days of the publication of the notice.~~

507 ~~17.6-2. Public Meetings. An Authorized Agency may hold a public meeting regarding a~~
508 ~~proposed Rule, but a public meeting is not required, except as described in Section 17.6-~~
509 ~~1(d)(2).~~ 17.6-2. Public Meetings. When a public meeting on a proposed Rule is scheduled by an
510 Authorized Agency, it must be held in accordance with the following requirements.

511 (a) The Authorized Agency shall set a date for the public meeting and have the notice
512 published in the Kalihwisaks and in the Oneida Register not less than ten (10) business
513 days prior to the meeting. ~~If the public meeting is scheduled based on a request pursuant~~
514 ~~to Section 17.6-1(d)(2), the public meeting must be held within thirty (30) days of~~
515 ~~receiving the request.~~

516 (b) The notice must include:

517 (1) ~~a reference to the law that the proposed Rule interprets, along with a list of~~
518 ~~any other related laws, policies or rules;~~
519 (2) ~~the terms, substance or a description of the subjects and issues involved, and~~
520 ~~instructions~~ information ~~for obtaining a copy of the proposed Rule and its~~
521 ~~electronically accessing the~~ summary report required under Section 17.5-2;
522 (3) ~~the date, time, and place of the scheduled public meeting; and~~
523 (3) ~~the date until which~~ name, address, phone number, and other appropriate
524 information to submit written comments ~~will be accepted on the Rule and the time~~
525 ~~period during which the Authorized Agency shall accept comments.~~

526 (c) The Authorized Agency shall hold a public meeting at the date, time and place
527 designated in the meeting notice.

528 (d) The Authorized Agency holding the public meeting shall have a representative
529 ~~present to preside~~ at the meeting who shall briefly describe the Rule which is the subject
530 of the public meeting and the nature of the Rule's ~~procedures~~ requirements, and then open
531 the meeting for comments. The ~~presiding~~ Authorized Agency's presiding representative
532 is not required to comment or respond to comments at the meeting, but may, at his/her
533 discretion, offer clarity.

534 (e) Registration. The Authorized Agency shall create and bring to the public
535 ~~hearing meeting~~ a sign-in sheet; persons attending the public meeting shall register at the
536 meeting by signing the sign-in sheet.

537 (d) ~~The~~ Authorized Agency shall audio record the public meeting ~~must be recorded and~~
538 ~~the persons who provide oral comments shall state their name for the record.~~

539 (g) The Authorized Agency shall hold the record open for the submission of written
540 comments for a minimum of five (5) business days following the public meeting.
541 ~~Persons who provide oral comments shall state their name for the record. The, provided~~
542 that, the Authorized Agency may extend the comment period as it deems appropriate by

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posting an amended Notice of Public Meeting based on the notice requirements found in Section 17.6-2(b) at any time prior to the close of the original public comment period which identifies the extended comment period ending date.

17.6-3. *Public Comments.* The Authorized Agency shall fully consider all comments received during the public comment period and during any public meeting held regarding a proposed Rule.

17.7. Oneida Legislative Operating Committee Certification of Procedural Compliance and Business Committee Review-and-Promulgation

17.7-1. After a public meeting, ~~if any,~~ is held and the public comment period has expired, the Authorized Agency shall submit the proposed Rule and the ~~summary report required under Section 17.5-2 to the Oneida~~ items it must contribute for the administrative record pursuant to Section 17.10 to the Legislative Operating Committee ~~for consideration. The Oneida, which is responsible for certifying that promulgation of the Rule complies with the procedural requirements contained in this Law.~~

17.7-2. Upon receipt of a complete submission, as required by this Section, the Legislative Operating Committee shall ~~review the proposed Rule and direct the Agency to make revisions, if any, it deems appropriate and shall also direct the Oneida Finance Administration to prepare a Fiscal Impact Statement for the proposed Rule within sixty (60) days. Once the Fiscal Impact Statement for the proposed Rule is submitted, the Legislative Operating Committee shall review the proposed Rule, the summary report, and the Fiscal Impact Statement and take one (1) of the~~ following actions:

~~(a) forward the Rule, with or without required revisions, to the Oneida Business Committee to be considered for adoption; or~~

~~(b) (a) If the Legislative Operating Committee is able to certify that the Authorized Agency has complied herewith, it shall forward items (b) and (c) of the Administrative Record under Section 17.10 received by the Legislative Operating Committee to the Oneida Business Committee with a written certification that the requirements of this Law have been fulfilled, and shall publish the Rule on the Oneida Register; or~~

~~(b) If the Legislative Operating Committee is not able to certify that the Authorized Agency has complied herewith, it shall return the proposed Rule to the Authorized Agency with recommendations.~~ specific feedback as to which procedural requirements were not fulfilled by the Authorized Agency.

~~(1) If substantial modifications are made to the proposed Rule based on the recommendations of the Oneida Legislative Operating Committee, the Authorized Agency may, at its discretion, present the proposed Rule for an additional public comment period, which, if offered, must be executed pursuant to Section 17.6.~~

~~(2) The proposed Rule must then be brought back to the Oneida Legislative Operating Committee to consider forwarding to the Oneida Business Committee for adoption accompanied by the summary report required under Section 17.5-2. If substantial changes have been made to the proposed Rule, the Oneida Legislative Operating Committee may, at its discretion, request an updated Fiscal Impact Statement from the Oneida Finance Administration.~~

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~~(A) Once the Oneida Legislative Operating Committee approves the Authorized Agency's draft of the Rule, it shall forward the approved draft of the Rule to the Oneida Business Committee to be considered for adoption.~~

17.7-~~23~~. The Oneida Business Committee shall review the proposed Rule, the summary report, the memorandum containing the public comments that were received, both orally and written, and the Authorized Agency's response to each comment, and the ~~Fiscal Impact Statement~~ take ~~one (1) of the following actions:~~

~~(a) Adopt the Rule, with or without changes;~~

~~(b) Reject the proposed Rule; or~~

~~(c) Return the proposed Rule to the Authorized Agency with recommendations.~~

~~(1) If substantial modifications are made to the proposed Rule based on the recommendations~~ Legislative Operating Committee's certification of compliance. If upon review the Oneida Business Committee has any concerns and/or requested revisions to the Rule, the Authorized Agency ~~may, at its discretion, present the proposed Rule for an additional public comment period, which, if offered, must be executed pursuant to Section 17.6~~ shall work with the Oneida Business Committee to address any concerns.

~~(2) The proposed Rule must then be brought back to the~~ (a) Unless the Oneida Business Committee repeals the Rule, the Rule will remain in effect while the Authorized Agency and the Oneida Business Committee to consider adoption accompanied by the summary report required under Section 17.5 2. and the Fiscal Impact Statement jointly work to amend the existing Rule.

(1) Should the Oneida Business Committee repeal the Rule adopted by the Authorized Agency, the Rule that was in effect immediately previous to those repealed, if any, will be automatically reinstated and effective immediately upon the repeal of the Rule adopted by the Authorized Agency.

(b) If ~~substantial changes have been made to the proposed Rule~~, the Authorized Agency does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rule within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rule, the Rule will remain in effect as submitted and certified by the Legislative Operating Committee.

(c) Should the Oneida Business Committee pursue amendments to the Rule, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(1) if the Authorized Agency and the Oneida Business Committee reach an agreement as to the content of the amendments, the Authorized Agency shall adopt the revised Rule that has been discussed with and agreed upon by the Oneida Business Committee; or

(2) if the Authorized Agency and the Oneida Business Committee ~~may, at its discretion, request an updated Fiscal Impact Statement from the~~ do not reach an agreement as to the content of the amendments, the Oneida ~~Finance Administration~~ Business Committee may adopt a revised Rule that incorporates the amendments it deems necessary.

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~~(A) Once~~ (d) If substantial revisions are requested by the Oneida Business Committee approves, where the consideration of a substantial revision is in the Authorized Agency's best informed discretion, the Authorized Agency shall hold an additional public comment period, which would restart the process beginning in Section 17.6 hereof.

(e) If a revised Rule is not adopted by either the Authorized Agency or the Oneida Business Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rule originally adopted by the Authorized Agency will remain in effect.

(f) If revisions are made to the Rule by either the Authorized Agency or the Oneida Business Committee, such party making the revisions shall provide a final version of the Rule, it shall adopt the to the Legislative Operating Committee. Upon receipt, the Legislative Operating Committee shall update the Oneida Register with the final version of the Rule by resolution.

17.8. Effective Date of Rules

17.8-1. ~~Unless otherwise specified in the adopted~~ The Authorized Agency shall determine a Rule's effective date, provided that a Rule, a Rule is may not become effective ~~upon approval by~~ until the ~~Oneida Business~~ Legislative Operating Committee. ~~The Rule shall be published in has provided the Authorized Agency with the Oneida Register upon its approval. written certification required by Section 17.7-2(a).~~ A failure to publish an approved Rule by its effective ~~date~~ date does not change the effective date of the Rule.

17.9. Emergency Rules

17.9-1. An Authorized Agency may present the Oneida Legislative Operating Committee with a proposed emergency Rule ~~without a public comment period being held if it finds there is an emergency situation that requires the enactment or amendment of a Rule for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment is required sooner than would be possible under the normal Rulemaking process.~~ The Legislative Operating Committee shall review the proposed emergency Rule, the summary report and the reasoning suggested for the emergency situation and take one (1) of the following actions:

- (a) reject the proposed emergency Rule on the basis that there is not a valid emergency; or
- (b) accept that there is a valid basis for an emergency and forward the emergency Rule to the Oneida Business ~~Committee for adoption with any revisions required by the Oneida~~ Legislative Operating Committee.

17.9-2. If the proposed emergency Rule is forwarded to the Oneida Business Committee, the Oneida Business Committee shall review the proposed emergency Rule, the summary report and the reasoning suggested for the emergency situation and take one (1) of the following actions:

- (a) reject the proposed emergency Rule on the basis that there is not a valid emergency; or
- (b) accept that there is a valid basis for an emergency and adopt, by motion, the ~~proposed~~ emergency Rule ~~with any revisions required by,~~ provided that, if the Oneida Business Committee deems it necessary, it may make revisions to the emergency Rule.

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(1) If the Oneida Business Committee makes revisions to the ~~17.9-3. As soon as possible after~~ emergency ~~enactment~~, ~~Rule that the regular procedures as provided under this law~~ Authorized Agency does not support, such concerns may be addressed when the Authorized Agency begins the process for permanent enactment of a ~~Rule must be implemented, if the~~ permanent ~~enactment is desired~~ Rule.

~~17.9-3. 17.9-4.~~ An emergency Rule becomes effective immediately upon its ~~approval~~ adoption by the Oneida Business Committee and remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency extension of up to six (6) months. Requests for the one-time emergency extension may be brought by the Authorized Agency directly to the Oneida Business Committee for consideration and shall become effective upon the Oneida Business Committee's approval and adoption by motion. An emergency Rule will:

- (a) expire when six (6) months have passed since the emergency Rule went into effect and an emergency Rule extension has not been approved; or
- (b) expire when six (6) months have passed since the emergency Rule extension went into effect; or
- (c) no longer be in effect when a ~~law~~ Rule is permanently adopted in the emergency Rule's place before the emergency Rule expires under (a) or (b).

~~17.9-3. The 4.~~ As soon as possible after emergency ~~Rule must be published~~ adoption, and if permanent adoption is desired, the Authorized Agency shall follow the regular procedures as provided under this Law to adopt the permanent Rule.

17.9-5. The Legislative Operating Committee shall publish the emergency Rule in the Oneida Register.

17.10. Creating and Maintaining an Administrative Record of Rules

17.10-1. The Legislative Reference Office, with information the Authorized Agencies shall provide, shall create and maintain a complete record of all proposed and adopted Rules, which must include the following:

(a) A memorandum provided by the Authorized Agency containing the Rule's procedural timeline including the dates the requirements of this Law were fulfilled by the Authorized Agency and any supporting documentation, which includes, but is not limited to:

- (1) Drafts of the Rule considered for the required Public Meeting;
- (2) The Public Meeting notice;
- (3) If the Rule is being amended, redline drafts from the currently effective Rule;
- (4) Minutes from the agency's meeting during which the proposed Rule was considered as an agenda item; and
- (5) Any other supporting information that may be requested by the Legislative Reference Office;

(b) The summary report required under Section 17.5-2 provided by the Authorized Agency;

(c) A memorandum provided by the Authorized Agency containing the public comments that were received, both orally and written, and the Authorized Agency's response to each comment; and

(d) The effective dates of the original Rules and any Rule amendments subsequently

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made as established by the Authorized Agency.

17.10-2. Prior to publishing approved Rules on the Oneida Register under either Section 17.7-3(f) or 17.9-5, the Legislative Reference Office shall create and/or update the administrative history on each Rule which must include the original effective date of the Rule and the effective date of any amendments made to the Rule.

17.11. Judicial Review of a Rule

17.10-1. ~~Any person~~Only persons or ~~agency~~Entities aggrieved by the promulgation of a Rule under this ~~law, is~~Law, are entitled to judicial review of a Rule by the Oneida Judiciary. ~~The Authorized Agency that promulgated the Rule shall transmit the entire record of the Rule currently under judicial review to the Oneida Judiciary.~~To be aggrieved, persons must demonstrate each of the following:

(a) That there has been an injury in fact which directly affects the person's personal interests;

(b) That the Authorized Agency's Rule caused the injury in fact;

(c) That finding the Rule partially or entirely invalid would bring the person relief from the injury in fact; and

(d) That the injury in fact is the type of injury protected by the Rule.

17.10-2. The Oneida Judiciary may uphold ~~promulgation~~the validity of the Rule; ~~remand the case for further proceedings~~; or it may ~~reverse~~declare the Rule ~~invalid~~, in whole or in part, if the substantial rights of petitioners have been prejudiced because the Rule is:

(a) ~~In violation of a provision of the Nation's~~Tribe's Constitution;

(b) ~~In excess of the Authorized Agency's Rule-Making~~Rulemaking Authority or is otherwise unlawful;

17.11-3. Statute of Limitations. No Rule may be contested based on non-compliance with the procedural requirements of this Law after one (1) year has elapsed from the effective date of the Rule. Further, persons or agencies aggrieved by a Rule promulgated pursuant to this Law must file their claim with the Oneida Judiciary no later than three (3) years from the date of the persons injury in fact as required in Section 17.11-1(a).

17.11-4. Upon the Authorized Agency's receipt of notice that an appeal has been filed regarding a Rule of the said agency, the Authorized Agency that promulgated the Rule shall request the Administrative Record of the Rule created under Section 17.10 and shall submit the said record to the Oneida Judiciary.

17.12. Standard of Review for Actions Taken Pursuant to Administrative Rules

17.12-1. Any Tribal body hearing an appeal or contest of an action taken pursuant to Rules created under Authorized Agencies delegated authority and the requirements of this Law, upon consideration of the Rule and the circumstances regarding the action taken may take any one (1) of the following actions:

(a) Uphold the action taken;

(b) Reverse or modify the action taken;

(c) ~~Clearly~~If at the second level of appeal, remand the matter for further consideration.

17.12-2. When hearing an appeal or contest of an action as described in this Section, the Tribal hearing body shall uphold the action unless it finds that the action:

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761 | (a) Amounts to a violation of the Tribe's Constitution;
762 | (b) Was in excess of the Authorized Agency's Rulemaking Authority or is otherwise
763 | unlawful;
764 | (c) Was clearly erroneous in view of the entire ~~record~~administrative and factual records;
765 | or
766 | (d) ~~Arbitrary~~ Was arbitrary or capricious; or
767 | (e) Exhibited a procedural irregularity which would be considered a harmful error that
768 | may have contributed to the final decision and if said irregularity were not present, the
769 | decision would have been different.
770 |
771 | *End.*
772 |
773 |



Legislative Operating Committee

October 21, 2015

Hunting, Fishing and Trapping Law Amendments

Submission Date: January 21, 2015

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: Tehassi Hill

Summary: *Amendments to the Hunting, Fishing and Trapping Law were requested to update and streamline the Law and to separate policy making and management decisions from the Law to avoid yearly/bi-yearly updates. It was decided remove the fees from the Law on an emergency basis in order to meet the publishing deadline.*

01/21/15 LOC: Motion by Tehassi Hill to add the Hunting, Fishing and Trapping Law Amendments to the active files list; seconded by Fawn Billie. Motion carried unanimously.

Note: Tehassi Hill will be the sponsor.

3/18/15 LOC: Motion by Jennifer Webster to defer the Hunting, Fishing and Trapping Law Amendments for a legislative analysis and fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

4/8/15: Work meeting held. Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Jacy A. Rasmussen, Eugene Schubert.

5/11/15: Work meeting held. Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Eugene Schubert, Richard Baird (ERB Chair)

6/17/15: Work meeting held. Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Eugene Schubert.

10/15/15: Work meeting held. Attendees include Tehassi Hill, Krystal John, Laura Manthe, and Shad Webster.

Next Steps:

- LOC to review the revised draft and consider sending for an updated analysis.

Chapter 45
HUNTING, FISHING AND TRAPPING LAW
Lutol@tha>, Latsyw@aha> O>kh@le Atlist@y< Tsi> Kayanl^hsla
Our laws concerning hunting, fishing and trapping

45.1. Purpose and Policy
45.2. Adoption, Amendment, Repeal
45.3. Definitions
45.4. Jurisdiction
45.5. Administration and Supervision

45.6. Licenses and Permits
45.7. General Regulations
45.8. Wildlife Damage and Nuisance Control
45.9. Hunting
45.10. Enforcement and Penalties

45.1. Purpose and Policy

45.1-1. *Purpose.* The purpose of this Law is to protect and conserve Wildlife on the Reservation and to promote respect among sportsmen, respect both the environment and fellow sportsmen.

45.1-2. *Policy.* It is the policy of this Law to provide:

- (a) an adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all Wildlife and natural resources on the Reservation.
- (b) an enforceable system of licensing and permitting which establishes clear Rules related to Hunting, Fishing and Trapping, and associated fines and penalties for violations of this Law and the said Rules.

45.2. Adoption, Amendment, Repeal

45.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-8-31-94-C, and amended by resolutions BC-4-24-96-A, BC-7-22-98-A, BC-09-13-00-D, BC-6-04-03-A, BC- 6-30-04-I, BC-7-13-05-E, BC-8-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A and _____.

45.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

45.2-3. 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.

45.2-4. In the event of a conflict between a provision of this Law and a provision of another Law, the provisions of this Law controls. Provided that, nothing in this Law is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

45.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

45.2-6. The Oneida Tribe of Indians of Wisconsin is a sovereign nation and reserves all sovereign rights, authority, and jurisdiction consistent with being a sovereign nation. This Law does not and should not be construed to waive the Tribe's sovereign immunity.

45.3. Definitions

45.3-1. 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) "Aircraft" means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.

- (b) "Barrel Length" means the length of a gun's barrel as measured from the muzzle to

the firing pin with the action closed, or from the muzzle to the breech face.

(c) “ERB” means the Environmental Resources Board.

(d) “Daily Bag Limit” means the maximum number of a species of Wildlife that a person may take during a twenty-four (24) hour period measured from midnight to midnight.

(e) “Department” means the Oneida Conservation Department.

(f) “Dependent” means a person under the age of eighteen (18) who is the child or step-child of a Tribal Member or who lives with a Tribal Member for more than half of the year.

(g) “Designated Hunter” means the person named by a permittee as authorized to harvest Wildlife on behalf of the permittee pursuant to the Permit held by the permittee.

(h) “Elder” means any person fifty-five (55) years of age or older.

(i) “Endangered or Threatened” means any species of Wildlife within the Reservation in danger of extinction or likely to become in danger of distinction as recognized by ERB and the Department and under federal law.

(j) “Fine” means a monetary punishment issued to a person violating this Law and/or the Rules created pursuant to this Law, which is payable to ERB or the Department within the amount of time designated by the Rules.

(k) “Fishing” means the taking, capturing, harvesting or attempting to take, capture or harvest fish of any variety in any manner.

(l) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to take, catch, harvest or attempting to harvest any Wildlife.

(m) “License” means a written document issued by the Department granting authority to engage in specific activities covered under this Law and the Rules created pursuant to this Law.

(n) “Loaded” means any firearm containing a cartridge in the chamber or any firearm containing a cartridge or cartridges in the attached cylinder, magazine or clip.

(1) Muzzleloading firearms may not be considered Loaded if a percussion cap is not covering the percussion nipple or .209 primers are not in the receiver.

(2) Flint lock muzzleloading firearms may not be considered Loaded if the flash pan is cleaned of powder.

(o) “Non-Indian” means a person who is not a member of any federally recognized Indian tribe, band, or community.

(p) “Non-Member Indian” means a person who is a member of a federally recognized Indian tribe, band or community other than this Tribe.

(q) “Nuisance Animal” means any Wildlife causing and one (1) or combination of the following:

(1) Damage to property;

(2) Damage to or Endangered or Threatened species of Wildlife and/or plants;

(3) Depredation of crops and/or livestock; or

(4) Health and/or safety risks posed to persons.

(r) “Penalty” means a punishment, other than a Fine, imposed on a person violating this Law and/or the Rules created pursuant to this Law and may include, but is not limited to, the confiscation of equipment and/or Wildlife, the imposition of a Wildlife protection assessment (civil recovery value), revocation and/or ineligibility for Licenses and/or Permits for a specified period of time, and restitution.

(s) “Permit” means a document, stamp or tag authorizing a specific activity which is

issued by the Department to the holder of a License.

(t) “Protected Species” means any species of Wildlife that is not Endangered or Threatened, but for which ERB has established seasons, Daily Bag Limits, or otherwise restricted the Taking of.

(u) “Reservation” means all the property 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.

(v) “Rule” means any exercise of authority delegated to ERB and/or the Department pursuant to this Law in the form of a rule, regulation, policy or any other tool designed to exercise ERB’s and/or the Department’s delegated authority in order to implement, interpret and/or enforce this Law. A Rule does not include any statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of a department or division, or, which do not affect the private rights or interests of individuals outside of the said department or division.

(w) “Take” or “Taking” means pursuing, shooting, Hunting, Fishing, netting (including placing or setting any net or other capturing device), capturing, harvesting, snaring or Trapping any Wildlife, or attempting any of the foregoing.

(x) “Transport” means to bring or move from one place to another by means of carrying, dragging, pushing, towing, or storing in or on a Vehicle, Aircraft or boat.

(y) “Trapping” means the Taking of, or attempting to Take, any Wildlife by means of setting or operating any device or mechanism that is designed, built, or made to close upon, hold fast, snare or otherwise capture Wildlife.

(z) “Tribal Land” means any land within the Reservation that is held in fee or in trust and is owned by the Tribe, a Tribal Member, or a Non-Member Indian.

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

(bb) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

(cc) “Vehicle” means any self-propelled conveyance that derives power from a motor and is used to transport persons or objects over land, including but not limited to, an automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle, moped or similar conveyance.

(dd) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian pursuant to Domestic Animal Ordinance, or any part or carcass of the same.

45.4. Jurisdiction

45.4-1. This law applies to the following persons:

(a) All Tribal Members,

(b) All Non-Member Indians, and

(c) All Non-Indians who:

(1) enter Tribal Land, or

(2) apply for and receive a Tribal License and Permit.

(d) All persons as otherwise permitted under federal law.

45.4-2. This law applies:

(a) within the boundaries of the Reservation, and

(b) on lands held in trust for the Tribe outside the boundaries of the Oneida Reservation.

45.4-4. *Lack of State Jurisdiction.* The Tribe and the federal government have sole jurisdiction over the management and regulation of the Tribe’s natural resources. Accordingly, licenses,

permits, tags and the like issued by the state have no legal effect lands over which the Tribe exercises its jurisdiction under Section 45.4-2.

(a) State back tags may not be filled or utilized on lands over which the Tribe exercises its jurisdiction under Section 45.4-2.

45.5. Administration and Supervision

45.5-1. ERB and the Department, shall protect, manage, supervise, conserve, and enhance all Wildlife within the Reservation. ERB and the Department shall jointly establish and maintain the Rules that are required to implement this Law. The Department shall administer and enforce this Law and the Rules created pursuant to this Law.

45.5-2. *Authority.* In addition to any other duties delegated to ERB and the Department under this Law, jointly, ERB and the Department are hereby delegated to the authority to:

(a) Determine the types and number of Licenses and Permits that may be issued by the Department, including how many Licenses and Permits that may be issued to Non-Indian hunters.

(b) Establish a fee schedule and application requirements and deadlines for obtaining Licenses and/or Permits.

(c) Establish or amend Daily Bag Limits and possession limits based on the supply of Wildlife, the needs of conservation, and the objective of achieving a fair allocation of the harvest. Restrictions in such Rules may include, but are not limited to, limits related to gender, species, size, age, and maturity.

(d) Based on the monitoring and supervision of all Wildlife, when necessary, declare any species in need of protection a Protected Species or an Endangered or Threatened species, and thereafter modify or revoke such declarations as may be appropriate.

(e) Fix, shorten, extend or close seasons and Hunting hours on any Wildlife. Provided that, the open season for the Hunting of migratory birds must be based on the Tribe's agreement with the U.S. Fish and Wildlife Service.

(f) Establish and/or modify areas' territorial limits, including bodies of water or parts thereof, for any of the following, as may be necessary:

(1) the taking of Wildlife;

(2) other specified areas, pursuant to the Rules jointly developed by ERB and the Department.

(g) Establish methods for checking persons into and out of areas specified under subsection (f) above.

(i) Regulate the operation of boats upon Reservation waters and the operation of Vehicles and Aircraft used while Hunting, Fishing or Trapping.

(j) Regulate and prescribe the means and methods by which Wildlife may be Taken, including, but not limited to, the use of:

(1) bait,;

(2) decoys;

(3) hunting dogs

(4) traps;

(5) firearms;

(6) ammunition;

(7) laser sights; and

(8) night vision.

(k) Regulate the Transportation, registration, tagging, and storage of all Wildlife within the Reservation and the shipment or transportation of Wildlife off the Reservation.

(l) Prescribe safety and fire control measures and other regulations as may be necessary for range, forest or Wildlife management, and/or for the safety and welfare of outdoor recreationists, landowners, lessees, occupants and the Tribe.

(m) Establish a process for retention, storage and disposal of items confiscated or turned over to the Department in accordance with this Law and the Rules established pursuant to this Law.

(n) Create Rules as specifically directed throughout this Law or as may be necessary to implement this Law. ERB shall provide notice of said Rules both on ERB's website and ERB and/or the Department shall develop a Rule booklet, which the Department shall provide to each person receiving a License or Permit pursuant to this Law.

45.5-3. *Approval of Fines and Penalties.* ERB and the Department shall jointly create a citation schedule setting the monetary Fines and Penalties for violations of this Law and/or the Rules established pursuant to this Law. The said schedule must be noticed to the Oneida Business Committee before it may be implemented.

45.5-4. *Oneida Conservation Wardens.* Oneida Conservation Wardens shall enforce this Law and the Rules established pursuant to this Law on the Reservation, and, accordingly shall:

(a) Observe persons engaged in Hunting, Fishing and/or Trapping in order to ensure that the methods and equipment utilized are lawful.

(b) Investigate reports of violations of Wildlife and environmental laws, including, but not limited to, this Law.

(c) Work to prevent persons from violating this Law and/or the Rules established pursuant to this Law.

(d) Issue warnings and/or citations, which may include Fines and/or Penalties, for violations of this Law and/or the Rules established pursuant to this Law.

45.5-5. *Oneida Police Department.* Any Oneida Police Department officer who observes a violation of this Law and/or the Rules established pursuant to this Law, shall report such violation to the Department and/or a Conservation Warden. However, if immediate action is necessary to prevent imminent danger to life or serious damage to property, the Oneida Police Department officer may issue a warning or citation for the said violation(s) and/or prevent persons from committing the said violation(s).

45.6. Licenses and Permits

45.6-1. *Sportsman License.*

(a) A Sportsman License is required for all persons Hunting, Fishing or Trapping on Tribal Land, except:

(1) Fishing is permitted without a Sportsman License for Tribal Members, Dependents, and Non-Member Indians whom are sixteen (16) years of age or younger.

(2) Landowners and lessees and their family members, may Hunt and Trap the following species on the property they own or lease, year-round, without a Sportsman License:

(A) coyote;

(B) fox;

(C) raccoon;

- (D) woodchuck;
(E) rabbit;
(F) squirrel; and
(G) any Nuisance Animal that is not an Endangered or Threaten species and is also not a Protected Species.
- (b) Anyone born on or after January 1, 1973 must successfully complete a state-certified Hunter Safety course to be eligible for a Sportsman License, except that:
- (1) *Fishing Only Sportsman License*. A Sportsman License may be issued which permits Fishing only. In such circumstances, successful completion of a state-certified Hunter Safety course is not required and the Department shall internally record such Licenses as permitting Fishing only. A person issued a “Fishing only” Sportsman License may not Hunt or Trap, or be eligible to Hunt or Trap, until the licensee provides the Department with proof of successful completion of a state-certified Hunter Safety course.
- (A) Any licensee holding a Fishing only Sportsman License may name a Designated Hunter to fill the Hunting or Trapping Permits that regularly accompany a Sportsman License based on the Rules established pursuant to this Law. For the requirements related to naming a Designated Hunter, refer to Section 45.9-4.
- 45.6-2. *Ceremonial and/or Feast Permit*. Tribal Members may apply for a ceremonial and/or feast Permit to group Hunt Wildlife outside of the regular applicable seasons.
- (a) When the ceremonial and/or feast Permit is for deer Hunting, it may only be issued for antlerless deer.
- (b) A ceremonial and/or feast Permit may be issued to a group and/or organization meeting each of the following requirements:
- (1) The group and/or organization must consist of at least eighty-five (85) percent Tribal Members;
- (2) The agent of the group/organization must be a Tribal Member;
- (3) The occasion for the ceremonial and/or feast requiring the Hunt out of season must be recognized by the Oneida community; and
- (4) The Hunt must take place on the Reservation.
- (c) All persons participating in the ceremonial and/or feast Hunt must be named hunters on the ceremonial and/or feast Permit.
- (d) The agent of the group ceremonial and/or feast Hunt must notify the Conservation Warden of the time and place where the Hunt will take place no later than twenty-four (24) hours prior to the Hunt. The Conservation Warden may monitor any portion, or the entirety, of the group ceremonial and/or feast Hunt.
- 45.6-3. *Other permits, tags and stamps*. In accordance with this Law and the Rules established pursuant to this Law, the Department may issue Permits authorizing a person to engage in specific Hunting, Fishing and/or Trapping activities, including Nuisance Animal Removal Permits pursuant to Section 45.8-2.
- 45.6-4. It is unlawful for any person to:
- (a) provide false information or fail to report relevant information as requested by the Department, when applying for a License or Permit; or
- (b) aid another in fraudulently securing a License or Permit.
- 45.6-5. Except as provided under Sections 45.6-1(b)(1)(A), 45.9-4 and 45.9-6, Licenses and/or

Permits are not transferable and may not be altered, defaced or lent to or from another person, any may not be used by any person other than the person to whom the License and/or Permit is issued.

45.6-6. *Disabled Hunter Permits.* The Department may issue a Disabled Hunter Permit to any person who is physically disabled, upon a showing of medical verification of a physical disability. A Disabled Hunter Permit sticker must be displayed in a manner and location as required by the Department. A Disabled Hunter Permit authorizes a person to Hunt:

- (a) within fifty (50) feet of the center of a road; and/or.
- (b) from within a Vehicle, provided that the vehicle may not be moving and the engine of the Vehicle may not be running.

45.6-7. *Denial of a License or Permit.*

(a) The Department may decline to issue a License and/or Permit to an applicant if:

(1) The applicant has unpaid fines, civil assessments, other fees and/or restitution owed because of a violation of this Law.

(2) At any time and for any reason, the Department determines that issuing the License and/or Permit poses a risk to the health, safety, and/or welfare of the Tribe, to natural resources on the Reservation, or to any persons. There is a rebuttable presumption that an applicant poses such a risk under the following circumstances:

(A) At the time of the request, the applicant's Hunting, Fishing or Trapping License, Permit or related privileges are suspended or revoked in any jurisdiction.

(B) Within three (3) years of the request, the applicant has repeatedly and/or egregiously done any one (1) or more of the following:

(i) violated this Law, the Rules established pursuant to this Law, and/or the Hunting, Fishing, or Trapping laws and regulations of other jurisdictions;

(ii) violated other Tribal laws while engaged in Hunting, fishing or Trapping activities; or

(iii) demonstrated poor judgment, disregard for safety or unsportsmanlike behavior while Hunting, Fishing or Trapping; including while interacting with other sportsmen or with wardens, of this jurisdiction or any other.

(b) Any person who has had a License or Permit denied in accordance with Section 45.6-7(a) may appeal the Department's decision by requesting a hearing before ERB pursuant to Section 45.10-4.

45.7. General Regulations

45.7-1. Persons may not:

(a) Enter onto private lands and/or waters to Take or retrieve Wildlife, without permission from the landowner, lessee or occupant.

(b) Leave, deposit, place or throw litter, debris, Wildlife, or any other waste material, on the Reservation's lands and waters.

(c) Cause damage to land or property belonging to another, including but not limited to, the Department's decoys placed for law enforcement purposes by Conservation Wardens or other law enforcement officers, and signs that give notice of a Hunting and/or trespass

restriction.

(d) Carelessly waste Wildlife. Every reasonable effort must be made to retrieve all Wildlife killed or crippled, provided that said retrieval must abide by 45.7-1(a).

(e) Knowingly disturb any den, nest, lodge, hut, dam or house that Wildlife may build to shelter themselves and their young.

(f) Take, injure or disturb Wildlife while on or in its den, nest, lodge, hut, dam or house, or remove any eggs or young, except as may occur in normal agricultural, recreational, horticultural, or Wildlife and fisheries research practices, and as expressly authorized by the Department.

(g) Harvest Wildlife with the aid of an explosive, poison, exploding point or tip, electrical device or stupefying substance or agent.

(h) Take another person's Wildlife or disturb another person's Hunting, Fishing, or Trapping equipment without permission; or otherwise interfere with the lawful Hunting, Fishing, or Trapping of another person.

(i) Stock or possess any live Wildlife on the Reservation without a Permit.

(j) Introduce or release Wildlife, fish eggs, or receptacles containing bait, on the Reservation or into Reservation waters without a Permit.

(k) Use in a reckless manner any device typically used for the harvesting of Wildlife, including but not limited to, firearms, bows, traps and knives.

(l) Shoot firearms, or place or operate any traps, except live traps, within one hundred (100) yards of any building structure, unless the owner-occupant, lessee or tenant has given permission.

(m) Use a gas powered motorboat on Tribal waters, except for the Department's use for law enforcement and conservation purposes

(n) Hunt, Trap, or possess any Hunting, or Trapping equipment while on Tribal Land where Hunting or Trapping is expressly prohibited by Tribal laws, policies, or regulations.

(o) Sell or purchase Wildlife that was harvested on the Reservation, except as may be expressly allowed by the Rules established pursuant to this Law.

(1) Under no circumstances may trading, gifting, or sharing of Wildlife for traditional or ceremonial purposes may not be considered a violation of this Section.

(p) Refuse to obey a Conservation Warden's lawful order.

45.7-2. *Possession and Transportation of Carcasses.* No person may possess or Transport any Wildlife unless he or she also possesses the appropriate License and any required Permit, including tags, for harvesting and/or possessing such Wildlife.

(a) While Fishing, and prior to returning to his or her residence, no person may possess:

(1) Dressed fish, unless those fish can be readily counted; or

(2) Any fish carcass or fish fillet unless at least one (1) square inch of skin with scales intact remains naturally attached to each carcass or fillet.

45.7-3. Any person who accidentally collides with and kills a deer while operating a Vehicle on a roadway, may retain possession of the said deer, provided that the person must have the deer tagged by the Department, or the Department's designee.

45.7-4. *Carcass Tags.* Except as otherwise provided in this Law and the Rules established pursuant to this Law, any person Hunting a species of Wildlife which is required to be tagged, shall possess a valid carcass tag, and, upon harvest, shall immediately validate and attach the tag

to the carcass in such manner as ERB and the Department shall jointly establish in its the Rules created pursuant to this Law. No person may possess or Transport harvested Wildlife that is not properly tagged in accordance with this Law and the Rules established pursuant to this Law.

45.7-5. *Health Advisory*. All Hunting and Fishing Rule booklets must contain a warning stating that fish caught in Duck Creek, as well as ducks, geese and other Wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health defects, that such risks are greatest for women and children, and that detailed information about PCBs is available from the Department upon request.

45.8. Wildlife Damage and Nuisance Control

45.8-1. Landowners and lessees may remove Wildlife considered a Nuisance Animal from land under their control and their associated structures, provided that all requirements of this Law and the Rules created pursuant to this Law must be satisfied, including, but not limited to the permitted methods of Taking and Hunting hours. Further, live-captured Nuisance Animals may not be relocated to Tribal Lands without express written authorization from the Department, and, similarly, may not be relocated to private property without express written authorization from the landowner.

45.8-2. *Nuisance Animal Removal Permit*. A Nuisance Animal Removal Permit is required to Hunt, Trap, or live-capture and relocate any Endangered or Threatened and Protected Species.

(a) In order to be eligible for a Nuisance Animal Removal Permit, the applicant shall demonstrate that:

(1) he or she has the authority to control Hunting and Trapping access to the lands being nuisance or damaged as well as any contiguous lands;

(A) In circumstances where the contiguous lands are not owned or leased by the applicant, the applicant shall demonstrate authority to control Hunting and Trapping access to the contiguous lands by providing the Department with the property owner's or lessor's written consent.

(2) he or she either is employing or agrees to employ, reasonable alternative abatement methods to removal;

(3) the Wildlife sought to be removed is a Nuisance Animal and reasonable alternative abatement methods either have been or are reasonably likely to be unsuccessful;

(4) he or she has complied with this Law and the conditions of any previously-issued Nuisance Animal Removal Permit, at a minimum, for the previous twelve (12) months from the date he or she applies for the Permit;

(5) the Nuisance Animal Removal Permit applied for does not conflict with any provisions of the Tribe's agreement with the United States Fish and Wildlife Service regarding the Taking of birds classified as migratory under 50 CFR 10.13.

(b) Each permittee shall keep a record of all Permit activities and shall provide the said Permit record to the Department within ten (10) days of the Permit's expiration. At a minimum, the Permit record must contain any agents assigned under Section 45.8-4 and the total number of Nuisance Animals removed pursuant to the Permit, provided that, the Department may name additional items required to be included in the record. All Permit records may be inspected by the Department at any time.

(c) The permittee shall return all unused Permits, including carcass tags, to the Department within ten (10) days of the Permit's expiration.

45.8-3. *Nuisance Animal Removal Permit Not Required.* A Nuisance Animal Removal Permit is not required if the Nuisance Animal would otherwise be exempt from the License and Permit requirements under Section 45.6-1(a)(2). Also, a Nuisance Animal Removal Permit is specifically not required in following circumstances:

(a) *Beaver.* A Nuisance Animal Removal Permit is not needed for a landowner, lessee, or an authorized agent to Hunt or Trap beaver(s) that are Nuisance Animals, or to remove a beaver dam. However, only the landowner and the Department may set traps on a beaver dam on Tribal Land; this privilege may not be transferred to an agent.

(b) *Emergencies.* Nuisance Animals for which a Nuisance Animal Removal Permit is otherwise required, may be removed without the required Permit if such removal is necessary to maintain a person's immediate health and safety. All Takings of Nuisance Animals occurring under emergency circumstances must be reported to the Department on the required form.

(1) The Department shall conduct an investigation into the validity of the alleged emergency circumstance. If the investigation provides clear and convincing evidence that the Taking was not in fact required due to a legitimate threat to a person's immediate health and safety, the Department shall classify the Taking an unlawful Taking without a Permit and shall take the appropriate corrective measures.

45.8-4. *Designated Agents.* A landowner may utilize an agent to remove a Nuisance Animal pursuant to the provisions of this Law. If the requirements of this Law and the Rules created pursuant to this Law are satisfied, the landowner's Nuisance Animal Removal Permit and associated carcass tags, if applicable, may be utilized by the landowner's assigned agent.

(a) In order for an agent to be assigned to remove a Nuisance Animal, the landowner shall ensure that the following conditions are met:

(1) The agent shall have a valid License for Hunting or Trapping that Nuisance Animal's species;

(2) The landowner shall grant written permission to the agent specifically identifying the following:

(A) the location of the Nuisance Animal where the removal activities are sought to occur;

(B) an authorized time period for the removal of the Nuisance Animal; and

(C) any other information as may be required by the Rules established pursuant to this Law.

(b) The Department may limit the number of persons permitted to assist in a removal.

(c) The landowner or lessee permittee may not charge any assigned agent any form of fee.

45.8-5. *Annual Migratory Bird Report.* Persons killing crows, cowbirds, grackles, and red-winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3 Migratory Bird Permit Office by January 31st for all such Takings occurring within the previous January to December.

45.8-6. *Conservation Warden Access.* Any landowner or lessee pursuing the removal of a Nuisance Animal shall grant Conservation Wardens free and unrestricted access to the premises on which the said removal is being conducted, is anticipated to be conducted, or has been conducted. Further, the landowner or lessee, and the landowner's agent, if applicable, shall promptly furnish any information requested by a Conservation Warden relating to the said

removal.

45.8-6. *Retaining Fur, Carcasses and other Parts of Nuisance Animals*. The following applies to Nuisance Animals removed in accordance with this Section:

(a) The permittee and each agent assigned under Section 45.8-4 may retain no more than one (1) deer removed pursuant to a Nuisance Animal Removal Permit. The Department shall distribute or dispose of any deer that are not so retained in accordance with the Rules developed pursuant to this Law.

(b) In order to keep, either for oneself or for sale, the furs of a Nuisance Animal Taken pursuant to a Nuisance Animal Removal Permit, the said Permit must explicitly and separately authorize the permittee to retain the Wildlife and to sell the Wildlife.

(1) Furs from Nuisance Animals which did not require a Nuisance Animal Removal Permit in order to be removed, may be retained by a landowner, lessee or assigned agent. However, he or she must have a valid License and/or Permit to commercialize in, sell, trade, ship or Transport any Wildlife, except that any squirrels' parts retained may be sold during the closed season.

45.9. Hunting

45.9-1. *General Firearm and Archer Regulations*. Persons may not:

(a) Hunt using any weapon other than a firearm, air rifle, bow or crossbow that is authorized under this Law and the Rules created hereunder for the Taking of a particular species.

(b) Discharge a firearm, air rifle, bow or crossbow:

(1) into Reservation lakes, reservoirs, or any area designated for public use pursuant to the Public Use of Tribal Land Law, except for the purpose of Hunting migratory birds during established seasons, in accordance with the Rules created pursuant to this Law;

(2) across any roadway; or

(3) within one hundred (100) yards of any structure, unless the owner-occupant, lessee or tenant has granted express permission.

(c) Transport any Loaded firearm, air rifle, or cocked bow or crossbow in a Vehicle.

45.9-2. *General Hunting Restrictions*. Persons may not, unless specifically authorized by a Permit, if applicable, do any of the following:

(a) Hunt with the use of Aircraft;

(b) Hunt within fifty (50) feet of the center of a paved road;

(c) Hunt from a Vehicle;

(d) Hunt while under the influence of alcohol or a controlled substance;

(e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light to find one's way and while Hunting, on foot, coyote, raccoon, fox, or any other authorized unprotected species, at the point of harvest;

(f) Shine between the hours of 10:00 p.m. and sunrise during the months of September, October, November and December; during all other months, shining is allowed at any hour;

(g) Hunt in a party of more than ten (10) persons;

(h) Hunt with, or possess while Hunting:

(1) Any firearm for which the possession is unlawful under Wisconsin or Federal law;

- 499 (2) Slugs, except that a person may possess slugs during deer firearm season if he
500 or she also possesses the required associated Permit;
501 (3) A handgun with a barrel length of less than five (5) inches;
502 (4) A concealed handgun without a valid permit from the State of Wisconsin;
503 and/or
504 (5) Any of the following without a valid federal permit:
505 (A) A shotgun that has a barrel length of less than eighteen (18) inches or
506 an overall length of less than twenty-six (26) inches;
507 (B) A rifle that has a barrel length of less than sixteen (16) inches or an
508 overall length of less than twenty-six (26) inches;
509 (C) A fully-automatic firearm;
510 (D) Any mechanism designed to muffle, silence or minimize the report of
511 any firearm.

512 45.9-3. *Accidents*. Any person who discharges a firearm, bow, or crossbow while Hunting and
513 injures another person, shall render or attempt obtain necessary medical assistance, provide the
514 injured person with his or her name and contact information including address, and report the
515 accident to either the Department or the Oneida Police Department as soon as possible.

516 45.9-4. *Designated Hunters*. A permittee may name a Designated Hunter to Hunt, Fish, or Trap
517 on behalf of the permittee in the event that the permittee is physically or legally unable to Take
518 pursuant to his or her own Permit, provided that, the name and contact information of the
519 Designated Hunter must be provided to the Department, and the Department must approve the
520 designation before the Designated Hunter is able to utilize the Permits of the original permittee.

521 (a) To be eligible to be named a Designated Hunter, the named person must:

522 (1) Possess a valid Hunting License;

523 (2) Be eligible for the Permits for which the person is named the Designated
524 Hunter; and

525 (3) Meet any other requirements of Rules created pursuant to this Law.

526 (b) Designated Hunters may only Hunt for one (1) permittee per season and may fill the
527 number of tags as authorized by the Rules developed pursuant to this Law.

528 (c) Any Wildlife taken by a Designated Hunter remains the property of the original
529 permittee and must be transferred to his or her possession as soon as practicable
530 following the Taking.

531 45.9-5. *Age Restrictions*

532 (a) Persons between the ages of fifteen (12) and eighteen (18) years of age may only Hunt
533 if they have obtained the required License and Permits and are under the immediate
534 supervision of a parent, legal guardian or a responsible adult to which a parent or legal
535 guardian has delegated his or her supervisory responsibilities.

536 (b) Persons between the ages of twelve (12) and fourteen (14) years old may only Hunt if
537 they have obtained the required License and Permits and are under the immediate
538 supervision of a parent, legal guardian or a responsible adult to which a parent or legal
539 guardian has delegated his or her supervisory responsibilities. Adults accompanying
540 youth hunters pursuant to this Section shall remain within voice and sight contact of the
541 youth hunters at all times.

542 (d) Tribal Members, descendants, Non-member Indians and Dependents aged ten (10) or
543 eleven (11) years old may Hunt if they have a mentor present while Hunting and have
544 obtained any required Licenses and Permits.

(1) The following limitations apply to youth hunters and their mentors Hunting pursuant to this Section:

(A) Only one (1) weapon may be possessed jointly between the mentor and his or her mentee(s);

(B) Mentors may mentor a maximum of two (2) youth hunters at the same time; and

(C) The mentor must remain within an arm's grasp of each youth hunter at all times.

(2) Eligible mentors must:

(A) Be at least eighteen (18) years old;

(B) Have a valid License and any required Permits; and

(C) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor.

(e) Tribal Members, descendants, Non-member Indians and Dependents having less than ten (10) years of age may Hunt if they have a mentor present while Hunting, provided that youth under the age of ten (10) may not use a weapon while Hunting.

(1) The following limitations apply to youth hunters and their mentors Hunting pursuant to this Section:

(A) Only one (1) weapon may be possessed jointly between the mentor and his or her mentee(s) and the;

(B) Mentors may mentor a maximum of two (2) youth hunters at the same time; and

(C) The mentor must remain within an arm's grasp of each youth hunter at all times.

(2) Eligible mentors must:

(A) Be at least eighteen (18) years old;

(B) Have a valid License and any required Permits; and

(C) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor.

45.9-6. *Deer Hunting Parties.* A deer Hunting party consists of a minimum of two (2) persons, but may not exceed ten (10) persons legally Hunting deer in a group.

(a) Any member of a deer Hunting party may harvest deer on behalf of another member of the deer Hunting party under the following circumstances:

(1) At the time and place of the harvest, the member of the Hunting party who harvests the deer shall be in contact with the member of the Hunting party on whose behalf the deer was harvested.

(A) For the purpose of this Section, contact means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid, provided that, hand radios are permitted.

(2) The member of the Hunting party for whom the deer was harvested must possess a valid, License and carcass tag for the deer.

(3) The member of the hunting party who harvest the deer shall ensure that a valid carcass tag is attached to the deer by a member of the hunting party prior to field dressing and moving the deer; the member of the hunting party that harvested the deer may not leave said deer unattended until it has been properly tagged.

45.10. Enforcement and Penalties

45.10-1. *Reporting Violations.* All persons shall report any violation(s) of this Law and/or the Rules created pursuant to this Law to the Department or the Oneida Police Department. The departments receiving such information regarding violations shall keep the information confidential.

45.10-2. *Suspension of Licenses/Permits.* The Department may suspend, revoke or deem a party ineligible for a License or Permit as a Penalty for committing any one (1) of the following acts or any combination thereof:

(a) Has committed an act causing any of his or hers Hunting, Fishing or Trapping licenses, permits or privileges to be suspended or revoked by any other jurisdiction, whether it be tribal, state or federal;

(1) For the purposes of this Section, a person's right to possess firearms is considered a Hunting privilege.

(b) Provides false information, or assists other in providing false information, when applying for a License or Permit;

(c) Fails to timely pay a Fine or abide by a Penalty assessed against him or her as a consequence for violating the provisions of this Law and/or the Rules created pursuant to this Law;

(d) Violates this Law and/or the Rules created pursuant to this Law and the violation is one for which the citation schedule identifies suspension, revocation, or ineligibility of a License or Permit as an available Penalty.

45.10-3. *Warning and Citations.* Conservation Wardens may issue verbal and/or written warnings and/or citations to any person found to be in violation of this Law and/or the Rules created pursuant to this Law. All warning and citations must identify the relevant violation and, if applicable, the Fine and/or Penalties imposed as a consequence of the violation.

45.10-4. *Appeal of a Denial to Issue a License and/or Permit.* Any person wishing to contest a decision of the Department to deny a License and/or Permit may appeal such action by requesting a hearing before ERB.

(a) In order to be considered timely, an appeal contesting an action of the Department must be filed within ten (10) business days of the date of the Department's action. ERB may not hear appeals that are not timely filed.

(b) ERB shall schedule a hearing for all timely filed appeal, which must be held within thirty (30) calendar days from the date the appeal was filed.

(c) ERB shall conduct hearings in accordance with its bylaws and any other applicable regulations, standard operating procedures, Rules, laws or policies governing Tribal administrative hearings.

(d) ERB's determination related to a denial of a License and/or Permit is final; no further review is available.

45.10-5. *Contested Action Hearings.* All citations issued pursuant to this Law must include a Prehearing date which must be set for the next scheduled monthly Prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation must appear at the Prehearing, at which time the Environmental Resource Board shall accept pleas which either contest or admit committing the act for which the citation was issued. The Environmental Resource Board shall schedule a Hearing as expeditiously as possible, provided that it must be scheduled within ninety (90) days of the date of the Prehearing, for all persons entering a plea

637 contesting the fact that they committed the act for which a citation was issued. In addition to
638 scheduling requested Hearings, the Environmental Resource Board may also make conditional
639 orders at the Prehearing which are effective until the matter is resolved.

640 (a) The Environmental Resource Board shall conduct Prehearings and Hearings in
641 accordance with its bylaws and any other applicable regulations, standard operating
642 procedures, Rules, laws or policies governing Tribal administrative hearings.

643 (b) *Community Service*. Community service may be substituted for monetary fines at the
644 Environmental Resource Board's discretion, provided that, if so substituted, the Board
645 shall use the rate of one (1) hour per ten dollars (\$10) of the fine.

646 (c) All Fines and Penalties issued by citations must be paid to the Environmental
647 Resource Board or its designee, the proceeds of which must be contributed to General
648 Fund.

649 (d) The Environmental Resource Board may pursue payment from parties who have
650 failed to make the required payments through the garnishment process contained in the
651 Garnishment Law and/or by attaching the judgment to a Tribal Member's per capita
652 payment pursuant to the Per Capita Law.

653 (d) *Community Service*. Community service may be substituted for monetary Fines and
654 Penalty assessments at ERB's discretion, provided that if so substituted, ERB shall use
655 the rate of one (1) hour per ten dollars (\$10) of the Fine or Penalty assessment.

656 (e) Any person wishing to contest ERB's determination related to a contested citation
657 may appeal the applicable determination to the Judiciary's Court of Appeals in
658 accordance with the Rules of Appellate Procedure, provided that the appeal must be filed
659 within thirty (30) days of the date of the Environmental Resource Board's determination.

660
661 *End.*

~~662~~
665 Adopted - BC-8-31-94-C
666 Adopted - BC-4-24-96-A
667 Adopted - BC-07-22-98-A
668 Amended - BC-09-13-00-D
669 Amended - BC-6-04-03-A
670 Amended - BC-6-30-04-I
671 Amended - BC-7-13-05-E
672 Amended - BC-8-29-07-F
673 Amended - BC-06-24-09-E
674 Amended - BC-08-26-10-I
675 Emergency Amended - BC-06-22-11-H (Expired)
676 Amended – BC-12-14-11-E
677 Amended – BC-05-22-13-A



Legislative Operating Committee

October 21, 2015

Domestic Animals Law Amendments

Submission Date: 9/16/15

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: Tehassi Hill

Summary: *Amendments were requested to this Law which would assist in protecting community members from disease, setting minimum standards for treatment of animals, prohibit certain animals from being brought onto the reservation, regulate livestock and establish consequences for damages caused by domestic animals.*

9/16/15 LOC: Motion by Tehassi Hill to add the Domestic Animals Law Amendments to the active files list with Tehassi Hill as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

Next Steps:

- Provide comments on the current draft, if any, and forward for a legislative analysis and fiscal impact statement.

Chapter 34

~~ONEIDA TRIBAL REGULATION OF DOMESTIC ANIMALS ORDINANCE~~

Kátse'na Olihwa'ke

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. Requirements for Dogs and Cats
34.7. Treatment of Animals
34.8. Prohibited Animals
34.9. Regulation of Livestock
34.10. Dangerous Animals and Damages Caused by Animals
34.11. Violations, Enforcement and Appeals

34.1. 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~~ 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~~Resolutions 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

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within this 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.

(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

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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~~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.~~

~~(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~~1st and ends December ~~31~~31st.

~~(7)~~(d) The owner of a dog or cat more than five (5) months of age on January ~~1~~1st 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 \$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 shall have the dog vaccinated against rabies 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~~

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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 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.~~

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(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 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~~ is unlawful for any person owning or possessing any dog or cat to permit the ~~dame~~ animal 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~~

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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 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 unspayed, 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 unspayed 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

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veterinarian within 30 days after the cat reaches four months of age and revaccinated within one year after the initial vaccinations.

(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 officer 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

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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 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.

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(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.

(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

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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 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 Varanidae. (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. (Boomsnakes 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)

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- (G) Family Natricidae. (Only keelback snakes, all others allowed)
 (H) Family Viperidae. (Copperheads, cottonmouths, rattlesnakes)
 (2) Order Crocodilia. (Crocodiles, alligators, caimans, gavials)
 (c) Class Aves.
 (1) Pile Order Falconiformes. (Eagles, hawks, vultures)
 (2) Order Rheiformes. (Rheas)
 (3) Order Struthioniformes. (Ostriches)
 (4) Order Casuariiformes. (Cassowaries and emus)
 (5) Order Strigiformes. (Owls)
 (d) Class Arachnida.
 (1) Order Scorpiones, Family Buthidae.
 (A) Arabian fat-tailed scorpion – Androctonus crassicauda
 (B) Arizona centruroides scorpion – Centruroides exilicauda
 (C) Death stalker – Leiurus quinquestriatus
 (D) Egyptian yellow scorpion – Androctonus Amoreuxi
 (E) Israeli black snake (Elaphe Obsoleta)-scorpion – Hottentotta judaicus
 (2) Bull snake (Pituophis melanoleucas sayi).
 (3) Fox snake (Elaphe eupina eulpina).
 (F) S.A. giant fat-tailed scorpion – Parabuthus transvaalicus
 (G) Sinai desert scorpion – Androctonus bicolor
 (H) Yellow desert scorpion – Androctonus Australia
 (2) Order Araneae, Family Therididae.
 (A) Argentina red widow spider – Latrodectus coralinus
 (B) Brown widow spider – Latrodectus geometricus
 (C) Red-black widow – Lactrodectus hasselti
 (D) Red widow spider – Lactrodectus bishop
 (E) Southern black widow spider – Lactrodectus mactans
 (F) Western widow – Lactrodectus Hesperus
 (3) Order Araneae, Family Laxoscelidae, Brown recluse spider – Loxosceles r
eclusa
 (e) Class Chilopoda.
 (1) Order Scolopendromorpha, Family Scolopendridae.
 (A) Amazon giant banded centipede – Scolopendra giganea
 (B) Arizona tiger centipede – Scolopendra virdis
 (C) Florida keys centipede – Solopendra alternans
 (f) Any Federal or State endangered or threatened species.
 34.8-3. This section shall not prohibit does not apply to:
 (a) Individuals who owned, harbored or possessed any of these animals on the date this
section goes into effect, provided that all such animals shall be registered with the Oneida
Conservation Department within thirty (30) days after this prohibition goes into effect.
This exclusion shall continue as long as the owner keeps such animals but does not
permit the addition of other prohibited animals; or
 (b) Zoological parks and/or sanctuary, educational or medical institution, and specially

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trained entertainment organizations, ~~educational or medical institutions, or~~ who receive a ~~person designated by permit from~~ the Oneida Conservation Department ~~from keeping 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. Any~~ 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 by 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.

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(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.

(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.

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(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

(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

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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.

~~(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.~~

~~(e) 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~~

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~~veterinarian under the control of the veterinarian at the owner's expense.~~

~~At the end of the observation period the Conservation Department may:~~

~~(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. Citations for the violation of this Law or for violating orders issued under this Law
must be jointly established by the Oneida Police Department and the Oneida Conservation
Department and approved by the Oneida Business Committee; said consequences may include
fines, penalties and conditional orders. 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. Hearing and Appeals of Contested Actions. All citations issued pursuant to this Law
must include a Prehearing date which must be set for the next scheduled monthly Prehearing date
that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation
must appear at the Prehearing, at which time the Environmental Resource Board shall accept
pleas which either contest or admit committing the act for which the citation was issued. The
Environmental Resource Board shall schedule a Hearing as expeditiously as possible, provided
that it must be scheduled within ninety (90) days of the date of the Prehearing, for all persons
entering a plea contesting the fact that they committed the act for which a citation was issued. In
addition to scheduling requested Hearings, the Environmental Resource Board may also make
conditional orders at the Prehearing which are effective until the matter is resolved.

(a) The Environmental Resource Board shall conduct Prehearings and Hearings in
accordance with its bylaws and any other applicable regulations, standard operating
procedures, Rules, laws or policies governing Tribal administrative hearings.

(b) Community Service. Community service may be substituted for monetary fines at the
Environmental Resource Board's discretion, provided that, if so substituted, the Board
shall use the rate of one (1) hour per ten dollars (\$10) of the fine.

(c) All citations must be paid to the Environmental Resource Board or its designee, the
proceeds of which must be contributed to General Fund.

(d) Any person wishing to contest the Environmental Resource Board's determination

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720 may appeal the applicable determination to the Judiciary's Court of Appeals in
721 accordance with the Rules of Appellate Procedure, provided that the appeal must be filed
722 within thirty (30) days of the date of the Environmental Resource Board's determination.
723 (e) The Environmental Resource Board may pursue payment from parties who have
724 failed to makes the required payments through the garnishment process contained in the
725 Garnishment Law and/or by attaching the judgment to a Tribal Member's per capita
726 payment pursuant to the Per Capita Law.

727 End.

728 ~~34.10-4. Penalties. An owner who refuses to comply with an order issued under this article to~~
729 ~~deliver an animal to an officer, isolation facility or veterinarian or who does not comply with~~
730 ~~conditions of an order that an animal be quarantined shall be fined not less than \$50 nor more~~
731 ~~than \$1000.~~

732
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735 Adopted - BC-3-13-96-B
736 Amended – BC-06-22-11-G
737

Chapter 34
DOMESTIC ANIMALS
Kátse’na Olihwa’ke
matters concerning the pet animals

34.1. Purpose and Policy	34.6. Requirements for Dogs and Cats
34.2. Adoption, Amendment, Conflicts	34.7. Treatment of Animals
34.3. Definitions	34.8. Prohibited Animals
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34.5. Licensing, Authority, Investigation, Responsibilities and Enforcement Powers	34.10. Dangerous Animals and Damages Caused by Animals
	34.11. Violations, Enforcement and Appeals

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 animals commonly owned as household pets.

(d) “Livestock” means any equine (i.e. horse, donkey, ect.), bovine (i.e. cow, steer,

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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.

(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

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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 1st and ends December 31st.

(d) The owner of a dog or cat more than five (5) months of age on January 1st 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.

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:

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- (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.
- (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.

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(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)

(D) Family Mustelidae. (Weasels, skunks, martins, minks) Excluding ferrets.

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- 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 Nactricidae. (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*
- 248 (2) Order Araneae, Family Therididae.
- 249 (A) Argentina red widow spider – *Latrodectus coralinus*

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- 250 (B) Brown widow spider – *Latrodectus geometricus*
 251 (C) Red-black widow – *Latrodectus hasselti*
 252 (D) Red widow spider – *Latrodectus bishop*
 253 (E) Southern black widow spider – *Latrodectus mactans*
 254 (F) Western widow – *Latrodectus 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 giganea*
 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
 291 prohibited animal that is released or escapes is liable for the expenses incurred to recapture the
 292 animal, and for any property damage or injuries to humans caused by the animal.

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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
 - (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

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- 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
- 377 believe that the animal is infected with rabies and has or may have bitten a person.
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34.11. Violations, Enforcement and Appeals

34.11-1. Citations for the violation of this Law or for violating orders issued under this Law must be jointly established by the Oneida Police Department and the Oneida Conservation Department and approved by the Oneida Business Committee; said consequences may include fines, penalties and conditional orders. 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. *Hearing and Appeals of Contested Actions.* All citations issued pursuant to this Law must include a Prehearing date which must be set for the next scheduled monthly Prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation must appear at the Prehearing, at which time the Environmental Resource Board shall accept pleas which either contest or admit committing the act for which the citation was issued. The Environmental Resource Board shall schedule a Hearing as expeditiously as possible, provided that it must be scheduled within ninety (90) days of the date of the Prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested Hearings, the Environmental Resource Board may also make conditional orders at the Prehearing which are effective until the matter is resolved.

(a) The Environmental Resource Board shall conduct Prehearings and Hearings in accordance with its bylaws and any other applicable regulations, standard operating procedures, Rules, laws or policies governing Tribal administrative hearings.

(b) *Community Service.* Community service may be substituted for monetary fines at the Environmental Resource Board's discretion, provided that, if so substituted, the Board shall use the rate of one (1) hour per ten dollars (\$10) of the fine.

(c) All citations must be paid to the Environmental Resource Board or its designee, the proceeds of which must be contributed to General Fund.

(d) Any person wishing to contest the Environmental Resource Board's determination may appeal the applicable determination to the Judiciary's Court of Appeals in accordance with the Rules of Appellate Procedure, provided that the appeal must be filed within thirty (30) days of the date of the Environmental Resource Board's determination.

(e) The Environmental Resource Board may pursue payment from parties who have failed to make the required payments through the garnishment process contained in the Garnishment Law and/or by attaching the judgment to a Tribal Member's per capita payment pursuant to the Per Capita Law.

End.

Adopted - BC-3-13-96-B

Amended – BC-06-22-11-G



Legislative Operating Committee

October 21, 2015

Employment Law

Submission Date: 9/17/14

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: Brandon Stevens

Summary: *This item was carried over into the current term by the LOC. The original proposal is for the development of an employment law to replace the current Personnel Policies and Procedures (Previously titled "Personnel Policies and Procedures-Revisions").*

- 9/17/14 LOC:** Motion by Jennifer Webster to add the Employment Law to the Active Files List, with Brandon Stevens as the sponsor; 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: 4) With regard to the Personnel Commission legislation, the Business Committee agrees that the Employment Law should continue forward and shall include consideration regarding how the Personnel Commission and/or their processes are incorporated into the Employment Law legislation; seconded by Trish King. Motion carried unanimously.
- 5/6/15 LOC:** Motion by Jennifer Webster to defer the Employment Law to a Legislative Operating Committee work meeting; seconded by Fawn Billie. Motion carried unanimously.
- 6/15/15:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Matthew Denny, Gina Buenrostro, Don White, Yvonne Jordan, Lynn Franzmeier, Candice Skenandore, Douglass McIntyre, Krystal John.
- 10/5/15 LOC:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Jennifer Webster, Danelle Wilson, Rhiannon Metoxen, Nick Reynolds, Krystal John, and Candice Skenandore.
- 10/8/15 OBC:** Work meeting held. Attendees include Brandon Stevens, David Jordan, Jennifer Webster, Melinda Danforth, Trish King, Tehassi Hill, Jessica Wallenfang, Mitzi Kopetsky, Nathan King, Apache Danforth, Rhiannon Metoxen, Danelle Wilson, Leyne Orosco, and Krystal John.

- **Next Steps:** Review the draft, provide comments, if any, and consider sending for the required analyses.

CHAPTER 300 EMPLOYMENT LAW

300.1. Purpose and Policy	300.7. General
300.2. Adoption, Amendment, Repeal	300.8. Employee Responsibilities
300.3 Definitions	300.9. Layoffs
300.4. Human Resources Department	300.10. Employee Discipline and Grievances
300.5. Hiring	300.11. Violations
300.6. Compensation and Benefits	

300.1. Purpose and Policy

300.1-1. It is the purpose of this Law to provide a fair, consistent and efficient structure to govern all employment matters.

300.1-2. It is the policy of the Tribe to provide Tribal Entities latitude to create human resource practices to fit their individual industry standards, while creating a strong and healthy work environment. In addition, although certain federal laws, specifically Title VII, do not apply to the Tribe, the Tribe's employment policy affords applicants and Employees Equal Employment Opportunities.

300.2. Adoption, Amendment, Repeal

300.2-1. This Law was adopted by the Oneida General Tribal Council by resolution _____ and is effective six (6) months from the date of adoption.

300.2-2. The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985, are hereby repealed.

300.2-3. This Law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

300.2-4. 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.

300.2-5. 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 this Law repeals the following:

(a) The Oneida Tribal Management System and amendments to the Tribal Management System, including the Personnel Policies and Procedures adopted by the Oneida Business Committee on May 7, 1985;

(b) BC Resolution BC-05-11-11-A for Establishing a Tuberculosis Control Program; and

(c) The Employee Protection Policy adopted by emergency pursuant to BC-4-20-95-B, permanently adopted pursuant to BC-12-6-95-B and subsequently amended pursuant to BC-1-20-99-B and BC-6-30-04-J.

300.2-6. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

300.3 Definitions

300.3-1. 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) "At-Will Employee" means employees of the Tribe that are not hired through the standard hiring procedures, including, but not limited to, Political Appointees, part-time,

seasonal, and volunteer workers, and Employees that have not yet completed their probationary period pursuant to the Rules developed by HRD.

(b) "Corrective Action" means any initiative taken by an Employee Supervisor with the goal correcting an Employee's prohibited behavior as identified in the Rules created by HRD.

(c) "Cost of Living Adjustments" means wage or salary modifications which allow Employees to sustain a certain level of living, including basic expenses such as housing, food, taxes and healthcare.

(d) "Employee" means any individual who is hired by the Tribe through the normal hiring process, works full-time (30 or more hours per week) or part-time (less than 30 hours per week) and is subject to the direction and control of the Tribe with respect to the material details of the work performed. "Employee" includes, but is not limited to, individuals employed by any Entity and individuals employed through an employment contract as a limited term employee, but does not include elected or appointed officials, At-Will Employees or individuals employed by a Tribally chartered corporation. Throughout this law all references to Employee include both Employees and At-Will Employees, unless the term At-Will Employee is used, in which case only At-Will Employees are intended.

(e) "Employee Supervisor" means the party responsible for directly overseeing the Employee and who is responsible for taking Corrective Actions when Employees fail to meet their responsibilities.

(f) "Entity" means any division of the Tribe having Employees and may include, but is not limited to, departments, areas, programs, enterprises, board, committees, commissions and the like

(g) "Equal Employment Opportunity" or "EEO" means the Tribe's consideration for hiring selection and position retention that is free from discrimination against any person on the basis of race (although Oneida and Indian Preference are allowable and are not considered a deprivation of an EEO), color, religion, sex (including pregnancy), national origin, age, disability or genetic information.

(h) "HRD" means the Oneida Human Resources Department.

(i) "Immediate Family Member" means an individual's husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law.

(j) "Involuntarily Separated" means an Employee is removed from employment.

(k) "Political Appointee" means an individual appointed as an executive assistant by an individual Oneida Business Committee member or as an assistant by a board, committee or commission.

(l) "Reviewing Supervisor" means the party responsible for overseeing the Employee Supervisor and who may hear an appeal of a Corrective Action taken by an Employee Supervisor.

(m) "Rule" means any exercise of authority delegated to HRD and by HRD pursuant to this Law in the form of a rule, regulation, policy or any other tool designed to exercise HRD's delegated authority in order to implement, interpret and/or enforce this Law. A Rule does not include any statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an Entity, or, which do not affect the private rights or interests of individuals outside of the said Entity.

(n) "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

(o) "Standard Operating Procedure" means an internal procedure that is created to govern how an Entity operates and performs its designated functions; a standard operating procedure does not affect parties outside of the Entity to which the procedure belongs.

(p) "Tribal" or "Tribe" means the Oneida Tribal of Indians of Wisconsin.

(q) "Tribal Member" means an individual who is an enrolled member of the Oneida Tribe of Indians of Wisconsin.

300.4. Human Resources Department

300.4-1. *General Responsibilities.* The HRD shall:

(a) Develop, amend, implement, interpret and enforce Rules necessary to carry out the intent of this Law. The Rules developed by HRD pursuant to this Section are effective upon HRD final approval. HRD shall provide notice of approval of said Rules to the Oneida Business Committee at the next available regularly scheduled Oneida Business Committee meeting following approval. If the Oneida Business Committee has any concerns and/or requested revisions upon review of the Rules, HRD shall work with the Oneida Business Committee to address such concerns and/or requested revisions.

(1) Unless the Oneida Business Committee repeals the Rules approved by HRD, the Rules remain in effect while HRD and the Oneida Business Committee jointly work to amend the Rules approved by HRD.

(A) Should the Oneida Business Committee repeal the Rules approved by HRD, the Rules that were in effect immediately previous to those repealed are automatically reinstated and effective immediately upon the repeal of the Rules approved by HRD.

(B) If HRD does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rules within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rules approved by HRD, they will remain in effect as approved by HRD.

(2) Should the Oneida Business Committee pursue amendments to the Rules approved by the HRD, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(A) if HRD and the Oneida Business Committee reach an agreement as to the content of the amendments, the HRD must approve the revised Rules that have been discussed with and agreed upon by the Oneida Business Committee; or

(B) if HRD and the Oneida Business Committee do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt revised Rules that incorporate the amendments it deems necessary.

(3) If revised Rules are not approved or adopted by either HRD or the Oneida Business Committee respectively within six (6) months from the date the

amendments are initiated by the Oneida Business Committee, the Rules originally approved by HRD will remain in effect.

(b) Provide all Employees a copy of all employment Rules and all Tribal laws and policies specifically pertaining to Employment matters, and shall further notify Employees of how such Rules, laws and policies may be electronically accessed.

(c) Review and approve employment related Standard Operating Procedures for all Entities.

(d) Issue guidance opinions regarding the application of this Law, Rules promulgated pursuant to this Law, and Standard Operating Procedures created to implement this Law and the Rules promulgated hereunder.

(e) Keep a record of all employment related decisions made by the Employee Supervisors, Reviewing Supervisors and the Oneida Judiciary.

(f) Collect and maintain data on human resource related information including, but not limited to, information on hiring, appointments, firing, transfers, Employee development, grievances, policy issues and insurances.

(1) HRD shall provide quarterly reports to the Oneida Business Committee in accordance with the schedule provided by the Tribal Secretary's office.

(2) The Oneida Business Committee may not have direct access to Employee information and/or personnel files, especially information relating to individual compensation or Corrective Actions; provided that, Oneida Business Committee members that are also Employee Supervisors may access the Employee records of any of his or her direct Employees pursuant to Section 300.4-1(f)(3)(B).

(3) HRD shall store these Employee records in a manner that maintains the records' private and confidential nature. Information contained in Employee records may only be released in the following situations:

(A) A current or past Employee may have access to his or her own Employee record.

(B) An Employee Supervisor may review any of his or her current direct Employees' records.

(C) If required by law, the Tribe shall release the information required to be released to the party the law designates as entitled to receive said information.

(D) A third party may access an Employee's record if the Employee provides written consent to release his or her record to a designated third party.

300.4-2. HRD shall uphold the Tribe's sovereignty, laws and policies in its hiring and employment practices.

300.4-3. *Memorandum of Understanding.* The Oneida Business Committee and HRD shall negotiate and enter into a memorandum of understanding which governs the relationship between the two parties by establishing the responsibilities and expectations of each party with regard to the management of HRD.

300.5. Hiring

300.5-1. *Hiring Philosophy.* The Tribe shall recruit, hire, retain and develop individuals who are culturally respectful, professionally competent and civically responsible.

300.5-2. *Equal Employment Opportunities.* The Tribe and HRD shall afford all applicants and Employees Equal Employment Opportunities; however, the Tribe shall follow the preferences outlined in Section 300.5-3 and such preferences may not be considered a violation of this Law.

300.5-3. *Oneida and Indian Preference.* The Tribe shall provide preference to Tribal Members first and members of other federally recognized tribes secondly.

(a) Unless otherwise prohibited by law or grant funding requirements, the Tribe shall apply the following order of Oneida and Indian Preference in staffing decisions:

(1) Persons who are Tribal Members.

(2) Persons who meet the blood quantum requirements contained in the Membership Ordinance, but are not currently Tribal Members, and/or persons who are documented first generation descendants of a Tribal Member.

(3) Persons enrolled in any federally recognized tribe other than this Tribe.

(4) All other non-Indian persons.

(b) If a law or grant funding requirement prohibits the application of Oneida and Indian Preference in accordance with 300.5-3(a), the Tribe shall make staffing decisions in accordance with the Indian Preference requirements of the said law or grant.

(c) Oneida and Indian Preference applies only when an applicant meets all the minimum requirements of the position applied for.

(d) *Oneida-Only Positions.* To the extent possible, all top administrative and political appointee positions must be held by Tribal Members.¹ If a position requires specific skills and/or licensing by the state or federal government and there are no available Tribal Members who possess the necessary skills or licensing to assume the vacancy, only then may a non-Tribal Member be selected to fill the vacancy.

300.5-4. *Education.* Employees under the age of fifty (50) who do not have a high school diploma or its equivalent at the time of hire, shall obtain a high school diploma, a high school equivalency diploma or a general equivalency diploma within one (1) year of being hired. Employees that do not meet this deadline and have not been granted an extension from HRD may be suspended until the employee provides documentation to HRD that he or she is in compliance with this Section.

300.5-5. *Workplace Safety* The Tribe develop Rules and procedures as necessary to protect the safety, health and well-being of all Employees and other individuals in the workplace.

(a) The Employee Health Nursing Department shall establish, maintain, implement, evaluate and periodically update a Tuberculosis Control Program, which applies to all Employees as well as elected and appointed officials of the Tribe. The Employee Health Nursing Department shall make the approved program available to all persons to which it applies.

300.5-6. *Conflicts.* An applicant is ineligible for positions for which he or she has a conflict of interest, as defined by the Conflict of Interest Policy, and/or if he or she would be directly supervised by an Immediate Family Member.

300.5-7. *Right to Work.* No person may be required to do any of the following in order to become or remain an Employee of the Tribe:

(a) resign or refrain from being a member of a labor organization;

(b) become or remain a member of a labor organization; or

(c) pay dues or other charges to a labor organization.

300.6. Compensation and Benefits

300.6-1. *Compensation Plan.* HRD shall develop and institute an Employee Compensation Plan

¹ January 8, 1990 GTC: Debbie Powless moved that the General Manager's and all top administrative positions be held by enrolled tribal members, motion seconded. ... Main motion carried.

to assure equitable salary and wage levels and shall consider data from the Bureau of Labor Statistics for average earnings in the Green Bay area; the said plan must be approved by the Oneida Business Committee prior to becoming effective.

(a) Wage and salary adjustments and benefits available to Employees are dependent upon available funding allocations, provided that, the Compensation Plan must require HRD to make reasonable efforts to regularly implement Cost of Living Adjustments based on the United States Department of Labor – Bureau of Labor Statistics’ Consumer Price Index for the Midwest Region.

300.6-2. *Designation of Employees.* The Tribe shall use the standards created under the Fair Labor Standards Act to designate its Employees as either nonexempt or exempt and to set minimum wage and maximum hour restrictions for employees receiving an hourly wage.

300.6-3. *Insurance and Retirement.* The Tribe may provide insurances and/or a retirement plan as a benefit to full-time Employees. Emergency and temporary Employees are not eligible for these benefits.

300.6-4. *Time Off.* The Tribe shall afford Employees paid time off to the extent that paid time off is accumulated based on continuous service to the Tribe. HRD shall establish rates of accrual and the process for requesting paid time off in the Rules it is charged with developing under Section 300.4-1(a).

300.6-5. *Leaves.* Employees of the Tribe may be allowed leave under circumstances provided in the Rules developed under Section 300.4-1(a) and any other applicable Tribal laws and policies.

300.7. General

300.7-1. *Employee Development.* The Tribe encourages the advancement and transfer of Employees in order to make the best possible use of human resources. Employees who wish to advance in the organization may work with the Human Resources Department to develop a personal development plan.

300.7-2. *Tribal Entities.* Individual Entities shall comply with this Law and the Rules promulgated under Section 300.4-1(a) and, if necessary, shall develop internal rules and Standard Operating Procedures for the implementation of said Rules.

300.7-3. *Safety and Fitness-for-Duty.* In order to create a safe and healthy work environment for Employees and to keep the number of job-related illnesses and/or injuries to a minimum, the Tribe shall maintain safety standards in accordance with the Tribe’s applicable laws and policies. The Tribe shall also maintain standards requiring Employees to perform their job duties in a safe, secure, productive and effective manner.

300.7-4. *Unemployment Insurance.* The Tribe shall comply with the State of Wisconsin’s unemployment insurance program; Employees of the Tribe may be eligible for unemployment benefits in accordance with the provisions of the laws of the State of Wisconsin.

300.8. Employee Responsibilities

300.8-1. *Harassment and Discrimination Prohibited.* All Employees are expressly prohibited from committing Sexual Harassment of another individual or engaging in any conduct that harasses or discriminates against another based on sex, race, religion, national origin, pregnancy, age, marital status, sexual orientation, or disability, provided that Employees must comply with the Oneida Preferences identified in Section 300.5-3 and such compliance is not a violation of this provision.

300.8-2. *Anonymous Information.* Employees who receive anonymous information of any type shall maintain the confidentiality of the said information and forward a summary of the information to the Chief of the Oneida Police Department expressly noting that the information

was provided anonymously.

300.8-3. *Employee Protection.* The Tribe may not retaliate against any Employee who reports an Employee's, Political Appointee's and/or Tribal official's violation(s) of Tribal laws, policies or rules and shall protect any Employees who report such violations from retaliatory actions.

(a) HRD shall develop Rules and procedures designed to protect Employees reporting others' violations of Tribal laws, policies or rules from any and all forms of retaliation.

300.9. Layoffs and Furloughs

300.9-1. Employees may be laid off and/or furloughed to the extent necessary for the Tribe to operate effectively and efficiently in varying economic conditions pursuant to the Tribe's laws, policies and rules.

300.9-2. Layoffs and furloughs may not be used for disciplinary reasons and may not under any circumstances be considered adverse employment actions.

300.9-3. The Tribe's decision to layoff and/or furlough an Employee is not subject to appeal.

300.10. Employee Discipline and Grievances

300.10-1. Corrective Action Rules and procedures may be used by Employee Supervisors to correct Employees' unacceptable work performance and/or behavior.

300.10-2. Employees, excluding At-Will Employees, who disagree with a Corrective Action may contest the Corrective Action using the Rules and procedures developed by HRD, and based on the following available levels of review:

(a) *First Level of Review.* Any Employee, excluding At-Will Employees, contesting the validity of a Suspension or Termination may appeal the said Corrective Action to the Oneida Administrative Court. Unless the Employee asserts that the contested Suspension or Termination amounts to a deprivation of an Equal Employment Opportunity, the decision of the Oneida Administrative Court is final.

(b) *Second Level of Review.* An Employee, excluding At-Will Employees, that is unhappy with the Oneida Administrative Court's decision regarding a contested Suspension or Termination, and, is able to demonstrate that the contested Corrective Action amounts to a deprivation of an Equal Employment Opportunity, may appeal the Oneida Administrative Court's decision to the Oneida Court of Appeals.

(c) *Compensatory Damages.* Should the Oneida Judiciary determine that there was an intentional deprivation of an Equal Employment Opportunity, the Oneida Judiciary may award compensatory damages, including, but not limited to, attorney's or advocate's fees and court costs, as against the individual(s) found to have engaged in the intentional deprivation of an Equal Employment Opportunity. Said compensatory damages may not be awarded against the Tribe.

300.11. Applicability to Elected Officials

300.11-1. The provisions of Sections 300.6-8 apply to Elected Officials of the Tribe that work full-time (30 hours or more per week) and receive salaries for their service.

300.12. Violations

300.12-1. Unless expressly stated otherwise in this Law, claims of alleged violations of this Law may be filed with the Oneida Judiciary.

End.



Legislative Operating Committee

October 21, 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.

9/16/15 LOC: Motion by David P. Jordan to accept the update as FYI and defer the Per Capita Law Amendments to the Legislative Reference Office and to bring back in 30 days for an update; seconded by Fawn Billie. Motion carried unanimously.

- **Next Steps:** Accept the 30 day update as FYI and defer to the LRO to continue working on the Amendments with the Trust Department and to bring a draft to the LOC at the November 4, 2015 meeting.

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: October 21, 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. This item was brought for the said sixty day update on September 16, 2015, at which time the LOC directed that a draft of the law be brought to the analysis for analysis at the October 21, 2015 LOC meeting.

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. In addition to these revisions, they included several other revisions that would streamline various processes and re-organize the law. As the revisions that were requested were more extensive than the Legislative Reference Office and I anticipated and include topics that require discussion, we are requesting additional time to work with the Trust Department to finalize a draft that all parties agree is appropriate.

I am asking that you defer this item back to my office for further work and I will bring back the Law at the November 4, 2015 LOC meeting.

Requested Action

Motion to accept the memorandum regarding the status of the Per Capita Law Amendments as FYI.



Legislative Operating Committee

October 21, 2015

Secured Transactions Act

Submission Date: 08/19/15

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: David P. Jordan

Summary: *This is a new law that will establish a Tribal office for the purpose of recording security interests as well as govern the exactness and priority of security interests and various related issues.*

8/19/15 LOC: Motion by David P. Jordan to add the Tribal Secured Transactions Law to the active files list with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Defer to the sponsor to continue working with the Legislative Reference Office and bring back a draft for analysis when ready.

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: Legislative Operating Committee
From: David P. Jordan, Councilmember
Date: October 21, 2015
Re: Secured Transactions Act

A handwritten signature in blue ink, appearing to read "David P. Jordan", is written over the "From:" line of the memorandum header.

On August 11, 2015, my office submitted an agenda request form and a rough draft for a new law entitled Oneida Nation Secured Transactions Act to the Legislative Operating Committee (LOC). At the August 19, 2015 meeting, the LOC added the item 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 Legislative Reference Office (LRO) has begun to review the draft and requires additional time to work with my office to discuss potential improvements to the rough draft.

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 Secured Transactions Act as FYI and to defer the item back to my office until a revised draft is prepared.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: September 16, 2015
- 2) Contact Person(s): Norbert Hill Dept: Education & Training Admin
Phone Number: 869-4037 Email: nhill@oneidanation.org
- 3) Agenda Title: Oneida Tribe of Indians of WI Research Protection Act
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
This Law is intended to assist Oneida w/consultation and research from tribal members. The goal is to use intellectual brain power of Oneida college graduates who'd be willing to serve as a tribal resource, ensuring future tribal growth/prosperity. We've invested scholarship dollars and should expect a ROI. Alumni will be able to "give back without moving back."

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

- 1) Draft #1 Research Act
- 2) _____
- 3) _____
- 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:
None
- 6) Please List all other departments or person(s) you have brought your concern to:
None
- 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: _____

Norbert Hill **NORBERT HILL**

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

Oneida Tribe of Indians of Wisconsin Research Protection Act

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WHEREAS the Oneida Tribe of Indians of Wisconsin (“Tribe”), by and through the Tribal Council, has the inherent sovereign authority to regulate the conduct and activities on all lands within the jurisdiction of the Tribe, and as expressly established in the Constitution of the Tribe (“Constitution”), to promulgate, adopt, and enact laws for the control and regulation on all lands within the jurisdiction of the Tribe, and to protect the health, economic security, and general welfare of the Tribe and its members; and,

WHEREAS, the Tribal Council has determined that human subject research projects conducted within the Tribe’s Territory and involving the Tribe’s members has the potential to cause harm and should therefore be strictly regulated;

NOW THEREFORE BE IT ENACTED that the Tribal Council hereby approves the following law entitled, the “Research Protection Act”.

SECTION 1. FINDINGS AND POLICY

- 1.1 The natural and cultural landscapes, including wildlife, flora, fauna, waters, and biogenetics, among others, located on aboriginal and present day Tribal lands are owned by the Tribe and the disposition, development, and utilization thereof are under the Tribe’s full control and supervision.
- 1.2 The integrity and orientation of past, present, and future generations of the Tribe is founded upon a unique and invaluable cultural, historical and environmental ethic which defines and perpetuates an identity, language, history, and value system involving an irrevocable cultural attachment to the native landscape ecology, and the human inseparability and interdependence with species and biological diversity. *(AWK – sentence is too long)*
- 1.3 The Tribe has the right of self-determination and in exercising that right is the exclusive owner of indigenous traditional knowledge.
- 1.4 Indigenous knowledge, cultural and biogenetic resources, and intellectual property rights have been, and continue to be, damaged, destroyed, stolen, misappropriated, both on and off the Reservation. As members of the Tribe have been the subject of human research for decades, with virtually no benefits returning to the Tribe from such research.
- 1.5 The Tribe finds that it is in its best interests to establish a research review mechanism to prevent the continued abuses, and to protect the people’s traditional knowledge and properties, and thereby to ensure our rights to continue to practice traditional lifeway’s for our long term survival. *Something similar to this wording should also be in the “Purpose” section.*
- 1.6 The established research review process is developed as a mechanism to improve relations between the Tribe and scientists/researchers, and to promote collaboration within the framework of mutual respect, equity, and empowerment, and maximize the benefits and reduce any risks to the Tribe.

SECTION 2. PURPOSE

2.1 The purposes of this Act is to: *So here it sounds like the Ordinance itself is meant to serve as a form of legal protection for the Tribe. Maybe the “established review process” should be mentioned here as well to demonstrate that the purpose of the Ordinance is also to outline the authority of the “established research review process”? I agree with comments 10 & 11 – the “established research review process” shouldn’t only be to protect the Tribe from research.*

- a. protect the people, culture, and natural resources of the Tribe and the Tribe’s future generations from unauthorized scientific research; and,
- b. to reduce any adverse effects of human subject research and related activities on the Tribe and its People; and,
- c. to ensure that researchers recognize the Tribe’s control of research activities and ownership of all data and information generated or produced by such research; and,
- d. to establish and provide a statutory basis for a process to review and govern any research, collection, database, or publication undertaken on the Reservation.

2.2 All research activities conducted on the Reservation must comply with this Act. *What about researchers from the tribe? For example, Tribal College... In section 12.3, it states the ordinance doesn’t apply to Tribal members...*

2.3 The Tribe reserves its right, through its inherent sovereign authority and its police power, to exclude individuals from the Reservation and to deny permission and access for any research activities whatsoever for any violations of this Act.

SECTION 3. DEFINITIONS

For purposes of this Act:

- 3.1 “Oneida Tribe of Indians of Wisconsin Indian Community” includes Tribal members, their descendants and ancestors, and other individuals, families, clans, and people residing within the reservation and the exterior boundaries of the Reservation.
- 3.2 “Academic Research” means research carried out to obtain educational qualifications, to further an academic career at an institution of higher learning, or for scientific advancement.
- 3.3 “Biodiversity” means the total variety of life in all its forms including levels that range from alleles to the biosphere and shall include alleles, genes, populations, species, ecosystems, landscapes, and the ecological processes of which they are a part.
- 3.4 “Biogenetic Resources” means biological and genetic resources, including plant material, animals, microorganisms, cells, and genes.
- 3.5 “Biological Samples” means, but is not limited to, bacteria and other microorganisms, plant, animal, or any human biological materials, genetic samples, any copies of the original genetic samples, any cell lines containing copies of the original genetic samples, and data derived from these samples.

- 3.6 “Commercial Purposes” means to sell, purchase, barter, trade, delay compensation for profit, exchange, transport, or offer to sell, purchase, barter, trade, delay compensation for profit, exchange, or transport.
- 3.7 “Cultural Research” means any endeavor, by means of critical investigation and study of a subject, to discover new or collate old facts or hypotheses on a cultural subject, the latter being defined as any ethnographic or anthropological study, including basic data collection, studies of or incorporating traditional knowledge or classification systems (e.g. studies of medicinal properties of plants), documentary films, archaeology, linguistics and ethno-historical accounts.
- 3.8 “Indigenous” means native, originating or growing naturally in a specific landscape and also refers to people descending from the original inhabitants of the Western Hemisphere who have maintained distinct languages, culture, or religion from time immemorial.
- 3.9 “Products of Research” means publications “including but not limited to reports, studies, articles, theses, books, manuscripts, sound recordings, film and video, media interviews, computer databases), field notes, illustrations, photographs, sound recordings, collected material artifacts, replicas, and specimens, including any derivative forms they may take such as translations, and communications through the electronic media, including the internet and world wide web.
- 3.10 “Research” includes identification, description, classification, collection, database, recordation, analysis, and publication in fields including, but not limited to, agronomy, archaeology, astronomy, biology, ethnobotany, ecology, environment, natural resources, health, ethnography, history, linguistics, paleontology, medicine, photography, psychology, remote sensing, sociology, theology, videography, and other investigative disciplines or approaches as identified by the Tribe.
- 3.11 “Reservation” means all lands outside or inside the exterior boundaries of the Oneida Tribe of Indians of Wisconsin Indian Reservation which are under the jurisdiction of the Tribe, ancestral lands where the tribe holds interest, and such lands as may hereafter be obtained or added to the jurisdiction of the Tribe.
- 3.12 “RRB” refers to a minimum *(to give yourself room to increase numbers without having to request the Ordinance be amended)* of five (5) members of the Research Review Board established under this Act.
- 3.13 “Taboo/Sacred” means subjects to which access is restricted to any degree which may include such subjects as places, names, knowledge, oral traditions, objects, and practices.
- 3.14 “Traditional Indigenous Intellectual Property” means the indigenous cultural information, knowledge, uses, and practices unique to the Tribe’s ways of life maintained and established over tribal homelands and aboriginal areas. This knowledge is based upon millennia of observation, habitation, and experience, and is a communal right held by the Tribe, and in some instances by individuals. This property includes, but is not limited to, the following:
- a. knowledge of remembered histories and traditions;
 - b. details of cultural landscapes and particularly sites of cultural significance;
 - c. records of contemporary events of historical and cultural significance;

- d. sacred property (images, objects, sounds, knowledge, material, culture or anything that is deemed sacred by the community;
 - e. knowledge of current use, previous use, and/or potential use of plant and animal species, soils, minerals, objects;
 - f. knowledge of preparation, processing, or storage of useful species;
 - g. knowledge of formulations involving more than one ingredient;
 - h. knowledge of individual species (planting methods, care for, selection criteria);
 - i. knowledge of ecosystem conservation (methods of protecting or preserving a resource);
 - j. biogenetic resources that originate (or originated) on indigenous lands and territories;
 - k. tissues, cells, biogenetic molecules including DNA, RNA, and proteins, and all other substances originating in the bodies of Tribal members, in addition to genetic and other information derived therefrom;
 - l. cultural property (images, sounds, crafts, art, symbols, motifs, names, performances); and;
 - m. knowledge of systems of taxonomy of plants, animals, and insects.
- 3.15 "Traditional Knowledge Right" means the traditional right of individuals to control the ways the information they provide is used and accessed. The issue of Traditional Knowledge Rights arises when individuals either own or are the custodians of specialized (or usually taboo/sacred) knowledge and its communication. This knowledge can include names, ceremonies, designs or forms, oral traditions, practices and skills. *If we try to give examples, are we limiting Traditional Knowledge Right to these categories?*
- 3.16 "Tribal Member" means an individual Indian who is enrolled in the Oneida Tribe of Indians of Wisconsin Tribe.
- 3.17 "Tribe" means the Oneida Tribe of Indians of Wisconsin Indian Tribe.

SECTION 4. RESEARCH REVIEW BOARD ESTABLISHED

- 4.1 There is hereby established a Research Review Board which shall be comprised of five (5) Tribal members who shall be appointed to serve on this Board by the Tribal Council;
- 4.2 The RRB shall have the following duties and responsibilities:
- a. to examine and comment on all proposals for research to be conducted within the Reservation or involving Members of the Tribe, and to monitor and regulate such research upon approval by the Tribe;
 - b. to promulgate rules under which the RRB shall operate subject to the laws of the Tribe.
 - c. to coordinate and insure that the interests of affected Tribal programs, departments, and members are protected.
 - d. to submit recommendations regarding proposals to the Tribal Council for final approval. *Something that OTIW Review Board has to decide is if they would like to be an autonomous body or would want all of the review board decisions regarding proposals to be approved by the tribe?*
 - e. to coordinate and interact with the researcher(s) in order to ensure the Tribe's

control of the research process and the Tribe's ownership of data and information generated by such research.

- f. to negotiate the terms and conditions of a research agreement, and submit such agreement to the Tribal Council and Chairman for authorization and execution.

SECTION 5. GUIDING PRINCIPLES FOR RRB

Can we put something cultural here? How about the seven teachings? A quote from a tribal researcher? Or, we may want to define Native Science which recognizes that all living things have a spirit!

- 5.1 The RRB, in examining research proposals, shall be guided by the following principles:
 - a. Principle of Fully Informed Consent after Full Disclosure and Consultation – research should not be conducted until there has been full consultation with all potentially affected communities and individuals including all human research subjects, and each such community and individual has approved the research after full disclosure. Full disclosure includes the full range of potential benefits and harms of the research, all relevant affiliations of the person(s) or organization(s) seeking to undertake the research, and all sponsors of the researcher(s), the use and ownership of all material and information collected, the use and ownership of any derivatives obtained using any material collected as part of the research project, and whether any information or material gathered will be utilized or transferred to third parties.
 - b. Principle of Immediate Risks and Benefits to the Tribe - The research should be of direct benefit to the Tribe and its Tribal Members, *(something to consider, a lot of research by its very nature, doesn't provide immediate benefit to the Tribe or the participants, but provides more indirect benefit...)* and the risks associated with the research should be less significant than the benefits to be gained.
 - c. Principle of Confidentiality – This principle recognizes that the Tribe and any human research subjects, at its/their sole discretion, have the right to exclude from publication and/or to have kept confidential, any information including information concerning themselves, their health, or their culture, traditional knowledge, traditions, mythologies, or spiritual beliefs, and all researchers and other potential users shall guarantee such confidentiality.
 - d. Principle of Respect – This principle recognizes the necessity for researchers to respect the integrity, morality, and spirituality of the culture, traditions, and relationships of Tribal members with the world, and to avoid the imposition of external conceptions and standards.
 - e. Principle of Communication – This principle recognizes that communications should be carried out in the local language, using translators as necessary, or in a manner in which the human research subjects have a full understanding of the right to informed consent; and that each human research subject has, in fact, provided informed consent prior to the initiation of any research.

- f. Principle of Empowerment – This principle recognizes that empowerment is the sharing of power and is premised on mutual respect. Empowerment means that each affected party feels their needs are being met in a fair and equitable manner. Empowerment also means that research authorship must be shared between the Tribe and the researcher.
- g. Principle of Equity – This principle recognizes that equity is a sharing of resources. Both the researchers and the Tribe must bring equity to any research contract, agreement or understanding. Each of the participants in a professional research agreement must evaluate such equity in relation to the research. Finance or money is only one form of equity. Community knowledge, networks, personnel and political or social power are other forms of equity useful to a project. Each of these commodities has value and must be shared between the researchers and the Tribe if a proper agreement is to be formulated. The parties must continuously review equity over the duration of a research agreement.
- h. Principle of Mutual Respect – This principle recognizes that in order to develop a professional research agreement, the researchers and the Tribe must generate respect for each other. Respect is generated by understanding the social, political and cultural structures of the other party. The researchers and the Tribe cannot assume they both believe in the same things or share the same goals and expectations. Proper communication is required if a professional research agreement is to be concluded. Cultural sensitivity training for the researchers as well as research awareness presentations on the Reservation will help develop a mutual understanding in conducting the research project. The Tribe and the researches must listen to each other with open minds.
- i. Principle of Prior Rights – This principle recognizes that indigenous peoples, traditional societies, and local communities have prior, proprietary rights and interests over all air, land, and waterways, and the natural resources within their territories that they have traditionally inhabited or used, together with all knowledge and intellectual property and traditional resource rights associated with such resources and their use.
- j. Principles of Self-Determination – This principle recognizes that indigenous peoples, traditional societies and local communities have a right to self-determination and that researchers and associated organizations must acknowledge and respect such rights in their dealings with these peoples and their communities.
- k. Principle of Inalienability – This principle recognizes the inalienable rights of indigenous peoples in relation to their traditional territories and the natural resources within such territories and associated traditional knowledge. These rights are collective by nature but can include individual rights. It shall be for indigenous peoples to determine for themselves the nature and scope of their resource rights regimes.
- l. Principle of Traditional Guardianship – This principle recognizes the holistic interconnectedness of humanity with the ecosystems of our Sacred Earth and the obligation and responsibility of indigenous peoples to preserve and

maintain their role as traditional guardians of these ecosystems through the maintenance of their cultures, mythologies, spiritual beliefs and customary practices. Some of the responsibility and obligation is granted to tribal members through traditional rites.

SECTION 6. RESEARCH PROPOSAL REQUIREMENTS

6.1 Time Frame:

As a cooperative venture, research, including human subject research, requires an appropriate time frame for review and approval by the Tribe. Researchers must begin working with the RRB in the earliest stages of planning their proposals. Depending on the nature of the proposed project, researchers are advised to allow sufficient time for the RRB to thoroughly review and understand all aspects of the research and to ask questions and resolve differences. Even the simplest of proposals must be submitted at least three (3) months prior to the anticipated project start date. The RRB reserves the right to reject last minute proposals.

6.2 Format:

A short (a maximum of five (5) pages, single sided) synopsis of the proposed project shall be submitted to the RRB. A full length proposal should be submitted as a supplement, upon request of the RRB. The synopsis must contain sufficient information to allow the RRB to make an informed decision. The following information must be included in any request for approval of a research project:

- a. **Statement of the Issue/Problem/Research Question:** The research applicant shall briefly describe the issue/problem the applicant is addressing by the proposed research. Specific questions related to this issue/problem and the theoretical rationale behind the questions shall be set forth. If the applicant has a specific hypothesis, the applicant shall briefly set forth such hypotheses.
- b. **Intent/Benefit to the Tribe:** The research applicant must clearly outline and discuss the intent of the research project and the benefit(s) that the project, research, or activity will have to the Tribe. Some questions to be answered are: 1) what are the anticipated consequences or results/outcomes of the project; 2) what groups will be affected and what groups will benefit; and 3) in what ways will these groups and the Tribe benefit?
- c. **Method:** As a part of the application process, the applicant shall briefly describe the procedure for the collection of all data to be used in the proposed study. The applicant shall include a description of subjects, settings, proposed procedures and the nature of the data to be collected.
- d. **Confidentiality:** A very important part of the application process is a description on how confidentiality will be protected. *The applicant shall identify the circumstances under which the obligations of the researcher may constitute a breach of confidentiality. What to do you mean here?* A description shall be given on how individual participants will be informed of the degree of confidentiality that will be maintained throughout the study. The Tribe will insist that, unless otherwise specified, only aggregate data, not individual data, shall be published or released to the general public. All individual identifiers such as names, addresses and phone numbers must be

kept confidential and no sale or transfer of databases outside the specific research project shall be allowed. The applicant must state in their application summary whether the community will be identified in any data released to the general public. The applicant shall also disclose whether, even without identifying information, the proposed research will have, or may likely have, any adverse impact on the Tribe or the human research subjects.

- e. Disposition of Data and Samples: A portion of the application process shall describe how individual participants will be informed of how data and samples will be used. Both the Tribe and the participants must clearly understand what the researcher plans to do with the information and samples that are collected, including any materials derived from collected samples. A description of the plans to provide individual participants with their own personal results must be provided. In addition, the research applicant shall describe how the community at large will be educated or empowered by the proposed research. A description of the frequency and manner by which the aggregate data and progress reports will be shared with the RRB must be set forth. Furthermore, communication strategies to present aggregate data to the Tribe, at large, shall be described.
- f. Risks: The applicant must describe any potential legal, financial, social, physical, or psychological risks that are anticipated in the research. Any risks of deleterious impact on the cultural, social, economic or political well-being of the Tribe or Tribal members shall be assessed. The assessment of risk will also address the steps that will be taken to minimize, ameliorate or repair any actual harm caused to the Tribe by the proposed research. An explanation shall also be provided on how potential risks will be explained to participants and how the risks are justified by the potential benefits of the research.
- g. Funding/Budget: If the study is funded by any public or private sources, the applicant shall provide a full reference of this funding source and explanation of any limits on the confidentiality of research results. If the researcher is currently seeking funding, the researcher shall list all funding agencies for which proposals are being sought. Researchers shall budget funding to cover cultural sensitivity training, and to provide adequate resources to cover community education and outreach efforts as part of the research, and finally, to rectify any harm to, or exploitation of, Tribal property or Tribal members resulting from the research.
- h. Cultural Sensitivity Training: All principal investigators, researchers, graduate students and any other people involved in the research will be required to undergo cultural sensitivity training to be provided at the researcher's expense. Costs will be determined based on the scope of the project. The training shall be provided by the Tribe or provided at the direction of the Tribe.
- i. Equity: The proposal must demonstrate how the participants and the Tribe will be given a fair and appropriate return for cooperation in the research. Just compensation or fair return includes, but is not limited to: obtaining copies of the research findings, authorship, co-authorship or acknowledgment, royalties, fair monetary compensation, copyright, patent, trademark, compensation for

- expenses incurred in reviewing/advising researchers, coverage of training/education or outreach expenses, or other forms of compensation.
- j. Consent: The proposal must address mechanisms for informed consent, which may be required from individual participants, families, clans or the Tribe. The applicant shall list all the agencies, professionals, government representatives, and individuals within the Tribe with which the applicant has previously discussed the proposed research and whether or not these individuals have given their informed consent, or other support, to the research.
 - k. Empowerment: The applicant shall describe how individuals and Tribal members will be empowered by the research process through employment, training, or outreach efforts. Native American preference must be given in employment and training in all phases of the project or activity, especially where the research is occurring on the Reservation. The Tribe's preference laws shall govern the order of priorities in hiring.
 - l. Intellectual Property Rights: The application shall address the plans (pre, during and post-project) for publication or commercialization of the research findings. If such publication or commercialization is contemplated, the applicant shall address how the Tribe will share in the authorship of publications or commercialization of the research findings. The Tribe also needs to know how the Tribe will have access to the project, research data or findings for the Tribe's own use. Researchers must inform the RRB of journals, publishing houses, or conferences that they plan to print or present the results of their studies before papers are submitted or presented. The proposal must demonstrate a process whereby the RRB and the Tribe will have an opportunity to review, critique, and approve the results of all studies before any publication, presentation, news conferences or release of data to the general public occurs. Researchers shall be responsible for addressing, correcting, and satisfying the concerns of the Tribe in drafts and final reports, papers, or data summaries before they are released to the general public.
 - m. Data Ownership/Archive: The Tribe reserves the right to require the deposit of raw materials or data, working papers or product in a repository designated by the Tribe, with specific safeguards to preserve confidentiality. Duplicates of data or split samples may be required to be stored in a local archive.
- 6.3 Administrative Fee: The researcher shall remit with the research proposal, an administrative fee in the amount of \$_____ *(not sure if we will charge a fee – some ways to think about fees: 1) Is this a one-time submission such as a publication? Or requires multiple reviews. If so, we can think of charging a fee at each annual review? 2) We can allow for exemptions for student researchers, etc., 3) Or we can charge a flat rate for every new submission? If I recall, Dr. Best used the figure of \$80 in a presentation he made before the tribe.)* to cover administrative costs associated with review of the proposal and permitting.
- 6.4 All publications, manuscripts and reports resulting from research must receive prior approval from the RRB and the Tribe.

SECTION 7. REVIEW OF RESEARCH PROPOSALS AND REVIEW PROCESS

- 7.1 All research proposals must be complete before the RRB is required to consider the proposal. A proposal is complete when it contains the fee and all of the information required in Section 6 that is necessary for the RRB to decide whether or not the proposal should be considered.
- 7.2 Any research summaries and support documents requested by the RRB pursuant to the proposal process should be sent to: TNRG-PO Box 1906, Belcourt, ND 58369.
- 7.3 The RRB shall review the application materials that are submitted and either:
 - a. Return the proposal to the researcher with requests for additional information or with suggestions for clarification or change; or
 - b. Forward the proposal and request to the Tribal Council with a recommendation for approval or disapproval; or
 - c. Consult with other Tribal members, Tribal elders, professionals, technical experts, or specialists for a second evaluation before sending recommendations to the Tribal Council.
- 7.4 The review process and approval of the research is complete when the researcher receives a letter of notification from the RRB and enters into a binding Research Agreement (see Appendix) that contains the obligations and responsibilities of the parties. Upon approval, principal investigators, co-principal investigators, researchers, graduate students and any others involved in the research shall undergo cultural sensitivity training at the researcher's expenses before any project begins within the Reservation. The RRB expects periodic progress reports and will use these reports to update the Tribal Council on the status of the project.
- 7.5 The RRB may specify a Compliance Fee in an amount appropriate to ensure the researcher's compliance with the conditions of the research. Upon completion of the research, the compliance deposit may be refundable.
- 7.6 Following approval of the research, the researcher shall secure all permits and licenses that may be required by Tribal law, including but not limited to a permit as provided under Section 9.

SECTION 8. RESEARCH AGREEMENTS

- 8.1 An agreement specific to the research shall be developed so that studies proceed in a manner that is both culturally sensitive and relevant to the participants and the Tribe.
- 8.2 Where any of the products of the research are to be used for commercial purposes, a separate agreement will be made specifying the basis on which sales are to be made and the proceeds of sales are to be distributed. Where research is engaged in for commercial purposes, it is the responsibility of the researcher to make all informants and suppliers of information aware of this fact, and to come to an agreement with them on the amount of compensation to be paid. There must be a limit on samples that the researcher may obtain and take off the Reservation, and the approved list and amount of samples to be taken must be followed strictly.
- 8.3 A sworn, notarized declaration of noncommercial use of research products *and/or traditional and indigenous knowledge* (**THIS IS NOT CLEAR?**) is required in

conjunction with an Academic Research Agreement. This declaration may be included in the body of the Research Agreement.

- 8.4 If a research project receives approval by the Tribe, the approval remains in effect for the period of time specified in the research agreement unless substantial changes are made in the research protocol. At the end of the period approved for the research project, the researcher must submit a letter in writing which summarizes the status of the project (complete, incomplete, discontinued), any unanticipated problems that occurred during the data collection phase of the project, and a time schedule for completion of all work, including community education/outreach related to the project. If the project is incomplete, the researcher must also request, in writing, an additional period for the data collection, analysis and report phase of the project.
- 8.5 If there are changes in the PI or significant changes that may alter the course of the research, the change must be approved by the TRB. *Would be safer to say that all changes to the protocol, including changes to PI, must be approved by TRB?*

SECTION 9. PERMITS

- 9.1 The RRB shall develop standard application forms for Researcher Permit applicants and set forth the type of information that must be submitted.
- 9.2 The RRB shall develop a standard permit form, which, at a minimum, shall include the name(s) of the researcher(s) covered, name and/or brief description of the study approved, location(s) of research to be conducted, and effective start and ending dates of the permit.
- 9.3 Upon execution of a Research Agreement, all persons conducting research on the Reservation shall obtain, from the Office of the Tribal Secretary, a Research Permit in accordance with the terms of this Section.
- 9.4 An application form for a Research Permit may be obtained from the RRB or from the Office of the Tribal Secretary.
- 9.5 All persons covered by a Research Permit shall have such Permit in their possession at all times while conducting research. The Research Permit must be produced for inspection or surrendered upon demand by authorized Tribal officials.
- 9.6 A Research Permit issued under this Section may be suspended or revoked at any time by the RRB or Tribe (Tribal Chairperson, Tribal Council, or the RRB, *Let's discuss this before we put it in this section.* if a permit holder is engaged in activities not allowed by the permit, fails to abide by a permit term or condition, has committed fraud or misrepresentation or provided incorrect statements in the application or permitting process, or is engaged in or has engaged in activities prohibited by this Act or any other Tribal law or resolution.
- 9.7 The revocation or suspension of a permit issued pursuant to this Section may be appealed to the RRB and a decision by the RRB is final for purposes of judicial review exclusively in the Tribe's Courts.

SECTION 10. MODIFICATIONS OF AN APPROVED PROJECT

- 10.1 If the researcher wishes to make changes in his or her research project after receiving approval from the Tribe, he or she must submit a summary of the proposed modifications to the RRB.
- 10.2 Modifications in the data collection procedures must be reviewed by the RRB and approved by the Tribal Council. Modifications to the research project shall not be implemented until the researcher and the RRB have amended the research agreement and permits, and the researcher receives written approval from the RRB.

SECTION 11. REGULATION OF BIOLOGICAL SAMPLES

- 11.1 Any researcher who seeks to collect, acquire, or analyze any biological samples must agree and abide by the following conditions with regard to research with biological materials.
- 11.2 The Tribe, may at any time, decide to withdraw from the research project or any portion thereof, and request the return of all biological samples. The researcher, and any other parties, must comply.
- 11.3 *(include the deleted part)* Upon completion of the research project, or termination or cancellation of the project at any time prior to completion, the biological samples must be completely and fully returned to the Tribe.
- 11.4 No biological samples from this study may be released to, or used by, any other researcher(s), research institution, or any other entity, whether public or private, without the prior and fully-informed written approval of the Tribe.
- 11.5 If the Tribe permits any biological samples to be stored in any other locations, the Oneida Tribe of Indians of Wisconsin will maintain jurisdiction over the samples and the researcher shall maintain, at all times, a complete list thereof. The list shall include a description of the sample or data, source, specific use or purpose of each item, responsible person(s) at the location, and where the item is housed (e.g., in a "gene bank" or on a specific computer), and any relevant time lines with regard to use of, disposition, return, or destruction of the samples or data. The researcher shall provide an updated copy of the list to the Tribe whenever changes are made. The updated list shall include identification of changes made since the last copy of the list was provided to the Tribe.
- 11.6 Any situation where biological samples will leave the possession or control of the researcher will require a separate agreement between the Tribe and the external party in accordance with this act.
- 11.7 No entity may seek to patent or commercialize any biological materials obtained from the Tribe, from the Tribe's jurisdiction, or under the authority of the Tribe including, but not limited to, genetic samples, any copies of the original genetic samples, any cell lines derived from collected materials, and data derived from these samples.

SECTION 12. RESERVATIONS AND TERMINATION

- 12.1 The Tribe reserves the right to:

- a. Withdraw consent to use or release information and/or prevent the publication of data which is unauthorized, misrepresents or stereotypes the Tribe or its members or will harm the health, safety or welfare of the Tribe, its members, or the environment.
 - b. Deny researchers the opportunity to conduct research within the Tribe's jurisdiction. In addition, other researchers or scientists from the same research institution may be denied any future access to the Reservation.
 - c. Withdraw approval for projects. Should this occur, the Tribe will explain the rationale for withdrawing approval and explain why this project or the release of data is deemed to be harmful to individuals or the Tribe at large. In the case of withdrawal of approval by the Tribe, all information and copies of data must be returned to the Tribe.
 - d. Exclude individuals from the Reservation.
 - e. Seek injunctive relief, including an order restraining a person from continuing to enter the Reservation.
- 12.2 If a project is terminated, the research entity or individual must provide just compensation to any field staff or member of the Tribe for their time and efforts spent related to the research project.
- 12.3 This Act does not apply to Tribal members conducting research for their own use; provided that this Act shall apply if a Tribal member is conducting research for, or is affiliated with, an outside institution.

SECTION 13. PROHIBITED CONDUCT.

- 13.1 No person shall conduct any academic research or cultural research without first obtaining approval by the RRB pursuant to Section 7 of this Act;
- 13.2 No person shall conduct any academic research or cultural research without obtaining a fully executed research agreement pursuant to Section 8 of this Act;
- 13.3 No person shall conduct any academic research or cultural research without maintaining in their possession a permit issued pursuant to Section 9 of this Act;
- 13.4 No person shall collect, acquire, or analyze any biological samples without abiding by the provisions of Section 11 of this Act;
- 13.5 No person shall alter, damage, disturb, excavate, remove, or desecrate any biodiversity related resources, biogenetic resources, or traditional, indigenous, intellectual property on the Reservation or of the Tribe:
- 13.6 No person shall, while on the Reservation, conduct any visitation, inventory, collection, research, or filming related to any biodiversity related resources, biogenetic resources, or traditional, indigenous, intellectual property or disturb any animals, vegetation, or landscapes of the Reservation or Tribe.
- 13.7 No person shall sell, purchase, exchange, transport, receive, or offer to sell, purchase, exchange, transport, or possess any biodiversity related resources, biogenetic resources, biological samples, or traditional indigenous intellectual property if such resource or property was obtained in violation of this Act or any permits.

SECTION 14. PENALTIES *We should have tribal court put these in their law and order code.*

14.1 CRIMINAL PENALTIES

- a. Any person who violates any section of this Act, or any permit issued under this Act, shall be assessed a civil penalty not to exceed \$10,000 per violation, or if applicable, any civil penalty provided for under Federal laws or the laws of the Tribe.
- b. No civil penalty shall be assessed unless such person is given notice and an opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. The trial of any such violation shall be by the Tribal Court and the prosecution shall have the burden of proving the alleged violation occurred beyond a reasonable doubt.
- c. Any person who violates this Act, or any permit issued under this Act, may lose the privilege of doing business or conducting research on the Reservation.
- d. Any non-member of the Tribe who violates this Act or any permit issued under this Act may be excluded from the Reservation.

14.3 CIVIL DAMAGES

Assessment of Actual Damages: Any person who violates any section of this Act or any permit issued under this Act shall be liable to the Tribe for civil damages to be assessed by the Tribal Court after a hearing. "Civil Damages" shall be interpreted liberally by the Court to include, but not be limited to, the following:

- a. Cost of restoration and repair; and
- b. Enforcement costs associated with the enforcement of this Act; and
- c. Costs associated with the culturally appropriate disposition of resources, including conservation, curation, and/or reburial.
- d. Assessment of Treble Damages: In addition to actual damages, the Court, in its discretion, may assess damages of up to three times the amount of actual damages.

14.4 FORFEITURE – All objects or property in the possession of any person, and obtained in violation of this Act or in violation of a term or condition of a permit obtained thereunder, shall be seized by law enforcement agents and forfeited to the Tribe for disposition. A person may recover all such property incapacitated by paying to the Tribe the costs incurred by the Tribe in carrying out legal proceedings, and by paying all fines due for violations of Tribal law.

14.5 SEIZURE OF SECURITY – The citing law enforcement agent shall:

- a. Seize such property in the possession of the alleged perpetrator, including vehicles, or equipment involved in the violation, as the enforcement program or agent deems reasonably necessary to secure payment of any fine or civil damages which may be levied upon the defendant upon conviction of the infraction or crime, or to fulfill a civil judgment.
- b. The property seized shall be released to the owner upon timely payment of any related civil assessments.
- c. Any seized property shall be forfeited to the Tribe if the assessment has not been paid within fifteen (15) days of the hearing at which the civil

assessment was levied or fifteen (15) days from the final determination of any appeal taken pursuant to this Act, whichever is later.

SECTION 15. PERSONAL JURISDICTION

- 15.1 As to a cause of action arising under this Act, a court may exercise jurisdiction over a person not domiciled on the Reservation on any basis consistent with, and on the broadest basis permissible under, the Constitution of the United States and the Constitution of the Tribe.

SECTION 16. SEVERABILITY

- 16.1 If any provision of this Act or the application thereof to any person, court, or circumstance is held invalid by a Tribal Court or another court having competent jurisdiction, the invalidity shall not affect other provisions of this Act which can be given effect without the invalid provision or application and to this end, the provisions of this Act are severable.

SECTION 17. REPEAL OF CONFLICTING LAWS OR REGULATIONS

- 17.1 Any ordinance, resolution, act, or rules and regulations in conflict with the provisions of this Act shall be superseded and repealed to the extent of such conflict.

SECTION 18. WAIVER

- 18.1 No individual person, Tribal official, or Tribal employee is authorized to waive any part of this Act.

SECTION 19. SOVEREIGN IMMUNITY

- 19.1 The Tribe and all its constituent parts, subordinate organizations, Boards, including the RRB, are immune from suit in any jurisdiction except to the extent that such immunity has been expressly and unequivocally waived by the Tribe by law.

SECTION 20. AMENDMENTS

- 20.1 This Act may be amended by the Tribal Council at any time.

SECTION 21. EFFECTIVE DATE

- 21.1 This Act is effective upon the date of enactment by the Tribal Council.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: October 14, 2015
- 2) Contact Person(s): Patricia King, Tribal Treasurer Dept: Oneida Business Committee
Phone Number: ext. 4462 Email: tking@oneidanation.org
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
See attached memo

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

- 1) Draft Severance Law
- 2) _____
- 3) _____
- 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:
BC Resolution 10-26-11-B
- 6) Please List all other departments or person(s) you have brought your concern to:
Oneida Human Resource Department; Legislative Reference Office
- 7) Do you consider this request urgent? ☒ Yes ☐ No
If yes, please indicate why: See attached memo

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

Signature of Requester: Patricia King

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



Onondas 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.

Page 145 of 151

Office of the Treasurer Memorandum

To: Legislative Operating Committee
From: Trish King, Treasurer *TK*
Date: 10/15/2015
Re: Emergency Adoption of Severance Law

This is a formal request to the Legislative Operating Committee for a legislative analysis of an emergency adoption of the attached draft Severance Law.

Chapter 16, "Legislative Procedures Act" provides the following guidelines where the Oneida Business Committee may temporarily enact an emergency law. Section 16.9-5 states:

"The Oneida Business Committee may temporarily enact an emergency law where legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law."

The Oneida Tribe experiences a structural fiscal gap year over year between \$28M and \$40M. For FY 2016, our employment cost is more than 38% of the tribal budget. Please consider the following fiscal status of the nation as necessary to provide an emergency approval of a severance law. The main intent of providing severance is to reduce the fiscal gap the tribe experiences year over year.

Fiscal Year 2016

Although a Fiscal Year 2016 balanced budget is provided, there are many factors yet needing solidification. The Oneida Tribe is currently operating under a Continuing Resolution until the General Tribal Council formally adopts the Fiscal Year 2016 budget. In addition, federal legislations impacting Oneida Tribal programs, services, and revenue, are also under a federal continuing resolution and a threat of a shutdown is still looming in December 2015. By implementing a severance process this fall 2016, there is an opportunity to provide a fiscal savings within 2016; to be realized as revenue in Fiscal Year 2018.

By offering a severance package, the Oneida Business Committee diminishes the chances of initiating a cost containment resolution.

Fiscal Year 2017

The projected 2017 fiscal structural gap between revenues and expenditures is projected at \$29M. O.B.C. Direct Reports and Chairpersons of Boards, Committees, and Commissions have strongly urged my office to begin the "budget development" process earlier than what standard practice has been.

I have already started dialogue with the Budget Core Team as to begin initial budget proceedings with the Tribal Operation. Within the next four (4) months the organization will begin developing our Fiscal Year 2017 budget. It is imperative for the operations to immediately assess their staffing levels so that supervisors, directors, and managers are fully prepared to participate in the budgeting process. I anticipate the FY 2017 budgeting process to begin March 1, 2016.

Fiscal Year 2018

The Finance Division has reported that the structural gap will continue into Fiscal Year 2018. I am requesting to take action now, as stated above, to begin decreasing the structural gap apparent in FY 2018. The main intent to completing the severance process by December 2015, relates to the immediate preservation of tribal operations in the current fiscal year, as well as future fiscal years.

Yaw^ko for your serious consideration.

Chapter 397 SEVERANCE LAW

397.1. Purpose and Policy
397.2. Adoption, Amendment, Repeal
397.3. Definitions
397.4. Severance

397.5. Chief Financial Officer Responsibilities
397.6. Executive Managers Responsibilities
397.7. Human Resources Department Responsibilities
397.8. Severance Agreement

397.1. Purpose and Policy

397.1-1. *Purpose.* The purpose of this Law is to offer severance payments to employees when it is determined that the financial conditions of the Oneida Tribe of Indians of Wisconsin warrant a need to reduce labor costs.

397.1-2. *Policy.* It is the policy of the Tribe to maximize the use of Tribal resources by offering severance benefits to eligible employees in order to lower the costs of labor.

397.2. Adoption, Amendment, Repeal

397.2-1. This Law was adopted by the Oneida Business Committee by resolution BC #_____.

397.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in Legislative Procedures Act.

397.2-3. 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.

397.2-4. 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 Resolution BC-09-14-94-B (Prohibiting Severance Pay).

397.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

397.3. Definitions

397.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Contracted Employee" means an employee who has a legally binding agreement setting out terms of employment.

(b) "Employee" means any person that performs services and/or labor for an employer in exchange for compensation. For the purposes of this Law, Elected Officials, Political Appointees, and those employees that have layoff status or temporary status are not considered employees.

(c) "Entity" means department, division, program, operation, etc.

(d) "Executive Manager" means the Direct Reports as defined in BC-10-22-14.

(e) "Relevant resignation information" means the name of the employee, position and/or title, wage or salary, hours worked per week, hours worked per year, years of service and any enrollment in the Tribe's medical insurance plan. Performance issues shall not be considered "relevant resignation information" and shall not be considered when determining eligibility for severance.

(f) "Resign" or "resignation" means to give formal notification to an employer that the employee gives up his or her position within the Tribe

(g) "Severance agreement" means an agreement between the Tribe and a current

employee that the Tribe will pay a sum of money to an employee for his or her resignation.”

(h) “Severance payment” means a sum of money paid by the Tribe to a resigned employee.

(i) “Temporary status employee” means an employee that is considered emergency temporary, limited term, seasonal, substitute and/or relief, youth worker or student intern.

(j) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

397.4. Severance

397.4-1. This Law shall govern all severance agreements paid by the Tribe. Severance payments shall not be offered to an employee unless the severance agreement is in compliance with this Law.

397.4-2. At the beginning of each fiscal year, the Chief Financial Officer shall determine if a severance payout is warranted based on the Tribe’s financial condition. When applicable, the Chief Financial Officer shall provide a recommendation to the Oneida Business Committee that a severance payout is warranted.

397.4-3. If the Oneida Business Committee has identified the necessity for severances to be offered, a resolution declaring a Severance period shall be adopted. The resolution shall direct the beginning and ending dates of the severance period.

397.4-4. *Eligibility.* An employee is eligible for severance if the employee has never accepted a severance from the Tribe before and one or more of the following applies:

(a) The employee is full time, meaning the employee averages at least thirty (30) hours of work per week.

(b) The employee was terminated and is currently in the appeals process and has his or her appeal overturned prior to the severance deadline.

397.4-5. An employee requesting severance shall complete an application and submit it to the Human Resources Department.

397.5. Human Resources Department Responsibilities

397.5-1. When the Oneida Business Committee determines a severance payout is warranted, the Human Resources Department shall:

(a) inform all eligible employees that a severance has been offered and identify any deadline dates;

(b) receive and attach resignation with severance request;

(c) forward all relevant resignation information up the chain of command starting with the employee’s supervisor and ending with the Executive Manager;

(d) obtain the Executive Manager decision to either approve to deny an employee’s resignation request with severance; and

(e) notify the employee of the Executive Manager’s decision.

397.6. Executive Managers Responsibilities

397.6-1. The Executive Manager shall approve or deny an employee’s resignation request with severance. When determining whether to approve or deny a resignation request with severance, the Executive Manager must consider one or more of the following:

(a) the vacated position is eliminated.

- (b) when the vacated position is not eliminated, a cost/benefit analysis demonstrates that the resignation request with severance will result in a savings to the Tribe
- (c) when the vacated position can be restructured into more than one position.

397.6-2. Upon approval of a severance request, the Executive Manager may eliminate a position due to an employee's resignation so long as the position is a budgeted position and within the approved work force level of the entity.

397.6-3. The Executive Manager shall determine which employee(s) shall receive a severance when multiple employees within an entity submit a resignation request with severance.

397.6-4. The Human Resources Manager shall assume the responsibilities of the Executive Manager when a non-divisional entity employee submits his or her resignation.

397.6-5. An employee shall not have a right to appeal the Executive Manager or Human Resource Manager's decision to deny a resignation request with severance.

397.7. Severance Agreement

397.7-1. The Human Resources Department shall notify the employee that his or her resignation request with severance was selected. The Human Resources Department shall develop the severance agreement using the guidelines with Human Resource Department's SOP. and forward to the employee.

397.7-2. The severance agreement shall contain the following information:

- (a) identify how and when the severance payment shall be made;
- (b) release the Tribe from any and all liability including employment rights;
- (c) specify that the employee shall be paid for any unused personal and vacation time within five (5) business days of the finalized severance agreement;

397.7-3. The employee shall review the severance agreement and make a determination to accept or deny the severance agreement within five (5) business days.

397.7-4. If an employee accepts the severance agreement, he or she must sign the agreement within three (3) business days. The day the employee signs the severance agreement shall be the employee's last day of employment with the Tribe.

397.7-5. If an employee does not accept the severance agreement within the time stated within the agreement, the severance agreement shall be invalid and the employee shall continue his or her work responsibilities. An employee may apply for employment with the Tribe after the three (3) year timeline has expired

397.7-6. An employee shall not be eligible for employment with the Tribe for three (3) years after the date of the signed severance agreement.

End.

October 2015

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

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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Sep 27 - Oct 3	Sep 27	28	29	30	Oct 1	2	3
Oct 4 - 10	4	5	6	7	8	9	10
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
Oct 11 - 17	11	12	13	14	15	16	17
				BC Meeting (BCCR)			
Oct 18 - 24	18	19	20	21	22	23	24
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
Oct 25 - 31	25	26	27	28	29	30	31
				BC Meeting (BCCR)	12:15pm 2:15pm Public Meeting-Higher Education Scholarship, Removal Law, Com		

November 2015

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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Nov 1 - 7	Nov 1	2	3	4	5	6	7
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
Nov 8 - 14	8	9	10	11	12	13	14
			BC Meeting (BC_Conf)	Veteran's Day Holiday			10:00am 6:00pm GTC Budget Meeting (Radisson)
Nov 15 - 21	15	16	17	18	19	20	21
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
Nov 22 - 28	22	23	24	25	26	27	28
				BC Meeting (BCCR)	Thanksgiving Holiday	Indian Day Holiday	
Nov 29 - Dec 5	29	30	Dec 1	2	3	4	5