

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
November 4, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. October 21, 2015 LOC Meeting Minutes
- III. Current Business**
 - 1. Furlough Policy
 - 2. Business Committee Meeting Law
 - 3. Code of Ethics Amendments
 - 4. Oneida Flag Policy
 - 5. Administrative Rulemaking Law
 - 6. Comprehensive Policy Governing Boards, Committees and Commissions Amendments
 - 7. Leasing Law
 - 8. Per Capita Law Amendments
- IV. New Submissions**
 - 1. Petition: Food Pantry
- V. Additions**
 - 1. Marriage Law Amendments
- VI. Administrative Updates**
 - 1. Memorandum: Request to add Resolutions to LOC Meeting Packets
- 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 21, 2015 9:00 a.m.

PRESENT: Brandon Stevens, Fawn Billie, David P. Jordan

EXCUSED: Tehassi Hill, Jennifer Webster

OTHERS PRESENT: Taniquelle Thurner, Candice Skenandore, Douglass McIntyre, Krystal John, Rae Skenandore, Trish King, Terry Metoxen, Bonnie Pigman, Cathy L. Metoxen, Matt Denny, Rhiannon Metoxen, Danelle Wilson, Leyne Orosco, Nancy Barton.

I. Call To Order and Approval of the Agenda

Brandon Stevens called the October 21, 2015 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Fawn Billie to adopt the agenda noting that the Severance Law Emergency Legislation will be the first item for discussion; seconded by David P. Jordan. Motion carried unanimously.

II. Minutes to be approved

1. October 7, 2015 LOC Meeting Minutes

Motion by David P. Jordan to approve the October 7, 2015 LOC meeting minutes; seconded by Fawn Billie. Motion carried with Fawn Billie abstaining.

III. Current Business

1. Back Pay Policy Amendments (22:55-32:22)

Motion by David P. Jordan to make the noted changes clarifying employment benefits and defer the Back Pay Policy Amendments for a legislative analysis and fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

2. Compliance and Enforcement Law (32:23-33:52)

Motion by David P. Jordan to accept the memorandum as FYI and defer the Compliance and Enforcement Law to the sponsor and bring back when ready; seconded by Fawn Billie. Motion carried unanimously.

3. Audit Law Amendments (33:52-42:12)

Motion by Fawn Billie to defer the Audit Law Amendments for a legislative analysis and fiscal impact statement; seconded by David P. Jordan. Motion carried unanimously.

Note: Jennifer Webster is the sponsor of the Audit Law Amendments

4. Comprehensive Policy Governing Boards, Committees and Commissions Amendments (42:14-01:18:50)

Motion by Fawn Billie to defer the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the sponsor to address the concerns and considerations and to prepare for a December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.

5. Administrative Rulemaking Law (01:18:51-01:22:15)

Motion by Fawn Billie to accept the legislative analysis and defer the Administrative Rulemaking Law to the sponsor to go through the noted considerations, make any changes if necessary and prepare for December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.

6. Hunting, Fishing and Trapping Law Amendments (19:49-22:49)

Motion by David P. Jordan to defer the Hunting, Fishing and Trapping Law Amendments for a legislative analysis; seconded by Fawn Billie. Motion carried unanimously.

7. Domestic Animals Law Amendments (01:22:16-01:24:30)

Motion by David P. Jordan to defer the Domestic Animals Law Amendments for a legislative analysis and fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

8. Employment Law (01:24:36-01:31:28)

Motion by Fawn Billie to defer the Employment Law for a legislative analysis; seconded by David P. Jordan. Motion carried unanimously.

9. Per Capita Law Amendments (01:31:30-01:33:43)

Motion by David P. Jordan to accept the memorandum as FYI and to defer the Per Capita Law Amendments to the sponsor to continue to work with the Trust/Enrollment Committee and to bring a draft back on November 4, 2015; seconded by Fawn Billie. Motion carried unanimously.

10. Secured Transactions Act (01:33:44-01:34:37)

Motion by David P. Jordan to defer the Secured Transactions Act to the sponsor; seconded by Fawn Billie. Motion carried unanimously.

IV. New Submissions

1. Research Protection Act (01:34:38-01:35:55)

Motion by David P. Jordan to add the Research Protection Act to the active files list with Fawn Billie as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

2. Severance Law Emergency Legislation (01:58-19:33)

Motion by David P. Jordan to add the Severance Law to the active files list and that this item be processed as an emergency; seconded by Fawn Billie. Motion carried unanimously.

Note: Fawn Billie will be the sponsor

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn

Motion by David P. Jordan to adjourn the October 21, 2015 Legislative Operating Committee meeting at 10:37 a.m.; seconded by Fawn Billie. Motion carried unanimously.



Legislative Operating Committee

November 4, 2015

Furlough Policy

Submission Date: October 15, 2014

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

LOC Sponsor: Fawn Billie

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

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

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

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

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

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

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

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

2/5/15: Public meeting held.

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

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

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

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

9/16/15 LOC: Motion by David P. Jordan to defer the Furlough Policy back to the sponsor, to bring back with recommendations for the Standard Operating Procedure and the Policy; seconded by Fawn Billie. Motion carried unanimously.

10/7/15 LOC: 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.

10/26/15: Work meeting held, attendees include: David P. Jordan, Fawn Billie, Nicholas Reynolds, Rhiannon Metoxen, Danelle Wilson, Taniquelle Thurner, Douglass McIntyre.

Next Steps:

- Review the changes to the draft and consider sending to the Oneida Business Committee for adoption.

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 Fawn Billie, Councilmember
 David P. Jordan, Councilmember
 Jennifer Webster, Councilmember

Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson
DATE: November 10, 2015
RE: Furlough Policy

Please find attached the following for your consideration:

1. Resolution: Adoption of the Furlough Policy
2. Statement of Effect: Adoption of the Furlough Policy
3. Fiscal Impact Statement: Furlough Policy
4. Legislative Analysis: Furlough Policy
5. Furlough Policy (clean)

Overview

Due to the federal government shutdown, the Oneida Business Committee (OBC) adopted a furlough policy as an emergency on October 15, 2013 which allowed Tribal employees to be furloughed as a cost-containment measure. The OBC extended the furlough policy on April 09, 2014 for an additional six months. The policy expired on October 15, 2014; however, on October 8, 2014, the OBC directed the Legislative Operating Committee to continue developing a permanent policy that allowed for furloughs.

The Furlough Policy:

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

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

Requested Action

Approve the Resolution: Adoption of the Furlough Policy.

BC Resolution _____
Adoption of the Furlough Policy

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

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

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

WHEREAS, Direct Report Level positions shall develop furlough plans for their areas; and

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

WHEREAS, Furloughs based on disciplinary reasons may be appealed to the Direct Report Level position for review,

WHEREAS, a public meeting on the proposed Furlough Policy was held on February 5, 2015 in accordance with the Legislative Procedures Act.

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

NOW THEREFORE BE IT FURTHER RESOLVED, the Furlough Policy will be effective 120 days after adoption;

NOW THEREFORE BE IT FINALLY RESOLVED, that the Human Resources Department is directed to complete the following within the next 90 days:

1. Review the Furlough Policy and create necessary documents for implementation.
2. Review existing work standards, standard operating procedures and interpretive memorandums to address any conflicts or corrections that should be made to fully implement the Furlough Policy.

Resolution _____

Page 2

- 42 3. Prepare a brief summary of the Furlough Policy for the organization and identify
43 where additional resources can be obtained in the event a furlough is approved.
44 4. Prepare necessary training videos to be used if a furlough is approved by the Oneida
45 Business Committee.
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David P. Jordan, Councilmember

Jennifer Webster, Councilmember

Statement of Effect

Adoption of the Furlough Policy

Summary

This Resolution adopts the Furlough Policy which enables the Tribe to implement a furlough as a tool to remedy an operating budget deficit. According to the Resolution, the Furlough Policy will become effective one-hundred and twenty (120) days after adoption. In addition, the Resolution directs the Human Resources Department to review the Furlough Policy and create necessary documents for implementation; review existing work standards, standard operating procedures and interpretive memorandums to address any conflicts or corrections that should be made to fully implement the Furlough Policy; prepare a brief summary of the Furlough Policy for the organization and identify where additional resources can be obtained in the event a furlough is approved and prepare necessary training videos to be used if a furlough is approved by the Oneida Business Committee. The Resolution requires the Human Resources Department to complete these directives within the next ninety (90) days.

Submitted by Douglass McIntyre, Staff Attorney, Legislative Reference Office

Analysis from Legislative Reference Office

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

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

Conclusion

There are no legislative bars to adopting this Resolution.



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

ONEIDA TRIBE OF INDIANS OF WISCONSIN

ONEIDA FINANCE OFFICE

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

MEMORANDUM

DATE: September 10, 2015

FROM: Rae Skenandore, Project Manager

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

RE: **Fiscal Impact – Furlough Policy**

I. Background

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

“The Oneida Business Committee has identified financial constraints due to the United States Government shut down which has halted Federal funding for some Tribal programs and services, and in order to manage the fiscal responsibility of the 2014 budget and to guarantee no cuts in services and programs, the Oneida Tribe of Indians of Wisconsin needs to implement an emergency Furlough Policy to provide a temporary reduction in work force to be in effect until such time as the United States Government shutdown ends and the Federal funding recommences, and the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months, and emergency adoption of the Furlough Policy is necessary for the preservation of the public health, safety, or general welfare of the reservation population, and observance of the adoption requirements under the Legislative Procedures Act for passage of laws and policies would be contrary to public interest”.

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

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

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

II. Executive Summary of Findings

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

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

III. Financial Impact

No fiscal impact.

IV. Recommendation

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

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Furlough Policy

<i>Analysis by the Legislative Reference Office</i>					
Title	The Furlough Policy ("The Policy")				
Requester	Oneida Business Committee (OBC)	Drafter	Douglass McIntyre	Analyst	Tani Thurner
Reason for Request	On October 15, 2013, the Oneida Business Committee (OBC) adopted a Furlough Policy on an emergency basis, which was extended and then expired on October 9, 2014. During the 2011-14 term, the Legislative Operating Committee (LOC) was processing the Furlough Policy for permanent adoption but did not complete it before the end of the term. This term, the OBC directed the LOC to continue processing that Policy for permanent adoption.				
Purpose	This Policy sets out a process for the Tribe to furlough employees (temporarily reducing their work hours) as a cost-saving measure.				
Authorized/ Affected Entities	Direct Report Level Positions (highest level in the chain of command under the OBC and who is responsible for a Tribal Department and/or Division [3-1(a)]), Supervisors, Human Resources Department (HRD) and the OBC all have responsibilities; all employees could be affected.				
Due Process	Furlough decisions are non-appealable, except an employee can file a written appeal for a furlough decision that s/he feels is disciplinary.				
Related Legislation	Layoff Policy; Personnel Policies and Procedures (Blue Book)				
Enforcement	None, but the Blue Book would govern any violations by Tribal employees.				

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Overview

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

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What is a furlough?

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

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- Employees must be furloughed on days they are normally scheduled to work, or on Tribal holidays, regardless of whether they were scheduled to work. [4-2]
- Employees on furlough cannot perform any work, including responding to work-related e-mail or voicemail and traveling on behalf of the Tribe. [4-4]
- A furlough does not constitute a break in continuous service. [4-4] However, an employee will not accrue personal and vacation time during a furlough. [4-6] This means that, depending on years of service, an employee will not accrue the following amount of personal/vacation time:
 - **0-3 years of service:** 0.554 hours for each full 8-hour day of furlough.
 - **4-7 years of service:** 0.708 hours for each full 8-hour day of furlough.
 - **8-14 years of service:** 0.923 hours for each full 8-hour day of furlough.
 - **15+ years of service:** 1.138 hours for each full 8-hour day of furlough.
- Employees are responsible for contacting the State to determine if they qualify for unemployment insurance benefits while furloughed. [4-5]
- This proposal adds a definition for Indian Preference - "a preference granted to retain the

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Oneida member employee with all other factors being similar with non-member employees.” Indian Preference may not be used as a consideration in identifying employees to be furloughed. [3-1(d) and 5-4]. The main reason Indian Preference would not be used as a consideration is because furloughs are intended to spread out the impact so that more employees each absorb a small amount of impact, instead of requiring a smaller group of employees to each absorb a greater impact.

Weekly Benefit Deductions for Furloughed Employees

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

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

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

Impact on workplace

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

Employees cannot earn overtime during any pay period where another employee from the same department/agency is furloughed; and cannot earn additional duty pay for performing duties for furloughed employees from the same department/agency. [4-7(b)] Furloughs cannot be used for disciplinary reasons. [5-3]

Furlough Plans

GM-level Positions must develop furlough plans to be kept on file with HRD, setting forth how their respective departments/agencies intend to implement a furlough. [5-1] A furlough plan must explain how employees will be selected and the estimated number of employees that would be affected; and must include a tentative schedule for a furlough and a summary of how the furlough will relieve budget shortfalls. This requirement is similar to the layoff plans that are required to be created in order to implement the Layoff Policy; except that furlough plans are not specifically required to be approved by the OBC; and HRD is not specifically given a role in helping to create furlough plans. [4-2(a), Article V]

This Policy does not identify requirements or a process for placing political appointees (i.e. OBC assistants) on furlough. It appears the intent is for the OBC to develop a standard operating procedure to govern such situations.

Furlough Process

The Policy sets out the following process:

1. OBC identifies that a furlough is necessary due to a decrease/lapse in revenue/funding, or any other budget situation warranting an unpaid leave. [4-1 and 1-2]

2. OBC gives the appropriate Direct Report Level positions a directive to implement furloughs by passing a Resolution. The Resolution must include furlough start and end dates. [4-1]
3. GM-Level positions must immediately carry out the furlough plans for his/her areas; and notify the supervisors in their areas that furloughs are necessary. [4-2 and 6-1]
4. Supervisor identifies employees who will be furloughed. [6-1(a)]
5. Supervisor notifies employees of the furlough and of their furlough dates. Employees must be notified at least five days before their position is furloughed. [6-1(b) and 4-3]
6. Supervisor notifies HRD of the employees who were chosen to be furloughed and of their furlough dates. [6-1(c)]

Appeals

The Policy expressly states that furlough decisions cannot be appealed under any Tribal law, policy or the personnel grievance process, [7-2] except that employees can appeal a furlough decision that s/he feels is based on disciplinary reasons. The burden of proof is on the employee to show that the furlough decision was disciplinary. The written appeal must be submitted to the Direct Report-level position within 10 days after the employee is notified of the furlough, and the Direct Report-level position may make a decision based on that written appeal alone. The Direct Report-level position's decision is final and non-appealable. [7-1]

Miscellaneous

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

Consideration

This Policy prohibits the use of Indian Preference in making furlough decisions, but the draft Furlough SOP developed by HRD (which sets out the process for implementing this Policy) does allow for Indian Preference to be utilized in making layoffs. That SOP may need to be revised to ensure it does not conflict with this Policy.

Furlough Policy

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

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

Article I. Purpose and Policy

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

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

Article II. Adoption, Amendment, Repeal

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

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

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

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

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

Article III. Definitions

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

(a) “Direct Report Level position” means the highest level in the chain of command under the Oneida Business Committee and who is responsible for a Tribal Department and/or Division.

(b) “Employee” 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 employee under the usual common law rules applicable to determining the employer-employee relationship. “Employee” includes, but is not limited to, an individual employed by any program or enterprise of the Tribe and political appointees, but does not include elected or appointed officials.

(c) “Furlough” means a temporary, unpaid leave from work for a specified period of time.

(d) “Indian preference” means a preference granted to retain an Oneida member employee over other non-member employees.

(e) “Supervisor” means a person who directly oversees the work and performance of an employee on a daily basis.

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

Article IV. Furlough

4-1. *Furlough Resolution.* If the Oneida Business Committee has identified the necessity for a

For OBC consideration

11/10/15

furlough, a directive by resolution shall be given to the appropriate Direct Report Level positions. The resolution shall direct the beginning and ending dates of the furlough.

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

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

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

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

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

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

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

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

Article V. Furlough Plans

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

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

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

5-3. *Disciplinary Furlough.* Furloughs shall not be used for disciplinary reasons.

5-4. *Indian Preference.* Indian preference may not be used as a consideration in identifying employees to be furloughed.

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

For OBC consideration
11/10/15

Article VI. Supervisor Responsibilities

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

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

Article VII. Appeal

7-1. An employee who has been furloughed under this Policy may only appeal a furlough that is based on disciplinary reasons. A written appeal must be submitted to the Direct Report Level position within ten (10) days from the notification of the furlough. The burden for showing that the furlough is based on disciplinary reasons rests on the employee. The Direct Report Level position may make a decision based on the written appeal alone. The Direct Report Level position shall provide a written decision on the matter to the employee and the supervisor. This decision is final and cannot be appealed.

7-2. An employee who has been furloughed does not have any other right to appeal a furlough decision under any Tribal law, policy or the personnel grievance process.

End.

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



Legislative Operating Committee

November 4, 2015

Business Committee Meetings Law

Submission Date: 9/2/15

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: Brandon Stevens

Summary: *This is a proposal for a new law to govern the structure of the Oneida Business Committee Meetings, creating a more efficient process for conducting Tribal business.*

9/2/15 LOC: Motion by Jennifer Webster to add the Business Committee Meetings Law to the active files list; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Accept the memorandum regarding the status of the Business Committee Meeting Law as FYI and defer the item back to the sponsor until a draft is 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: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson
DATE: November 4, 2015
RE: Business Committee Meeting Law

On September 2, 2015, my office submitted an agenda request form for the creation of a new law entitled Business Committee Meetings Law to the Legislative Operating Committee (LOC). At the September 2, 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 has begun the process of drafting the law. 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 Business Committee Meeting Law as FYI and to defer the item back to my office until a draft is ready.



Legislative Operating Committee

November 4, 2015

Code of Ethics Law Amendments

Submission Date: 9/17/15

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: Tehassi Hill

Summary: *This item was carried over into the current term by the LOC. The proposal seeks to amend the current Code of Ethics to strengthen accountability of employees, elected officials and appointed officials.*

9/17/14 LOC: Motion by Tehassi Hill to add the Code of Ethics Law Amendments to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously.


Next Steps:

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

Draft #1
11/04/15

Chapter 3 CODE OF ETHICS

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 Matters that will be followed

Preamble

- 3.1. Purpose and Policy
- 3.2. Adoption, Amendment, Repeal
- 3.3. Definitions
- SUBCHAPTER I - RULES
- 3.4. Standards
- 3.5. Media/Public Relations
- 3.6. Gifts

SUBCHAPTER II - ENFORCEMENT

- 3.7. General
- 3.8. Complaints
- 3.9. Panels
- 3.10. Frivolous Complaints
- 3.11. Appeal Rights
- 3.12. Reporting

Preamble

Where government is founded upon the consent of the governed, the People are entitled to have complete confidence in the loyalty and integrity of their government. The strength and effectiveness of the Oneida Tribal government rests upon the respect given to it by the members of the community; and ethical behavior is a critical element in preserving that respect. The public perception of each government official contributes to the public acceptance of the entire government.

This Code of Ethics is created to guide our chosen leaders as they represent and serve the Oneida Tribe, and to require accountability so as to preserve the trust of the People. This Code of Ethics not only reflects the ethical standards of modern society, but is founded upon the traditional values and principles of the Oneida People.



Many centuries ago, the On^yote>a-k@joined with other nations to form the Iroquois Confederacy. Together, our nations established the Great Law of Peace, which set forth the rules that would govern the Confederacy and maintain our relationships. One of the provisions of the Great Law of Peace set forth instructions for the representative leaders who would be responsible for the affairs of the Haudenosaunee:

“You shall now become a mentor of the people of the Five Nations. The thickness of your skin shall be seven spans -- which is to say that you shall be proof against anger, offensive actions and criticism. Your heart shall be filled with peace and good will and your mind filled with a yearning for the welfare of the people of the Confederacy. With endless patience you shall carry out your duty and your firmness shall be tempered with tenderness for your people. Neither anger nor fury shall find lodgment in your mind and all your words and actions shall be marked with calm deliberation. In all of your deliberations ... in all your official acts, self-interest shall be cast into oblivion. Cast not over your shoulder behind you the warnings of the nephews and nieces should they chide you for any error or wrong you may do, but return to the way of the Great Law which is just and right. Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground -- the

unborn of the future Nation.”

-From the twenty-eighth wampum, Great Law of Peace

“All of the representative leaders of the Five Nations Confederacy must be honest in all things. They must not idle or gossip, but be men possessing those honorable qualities that make true royaneh. It shall be a serious wrong for anyone to lead a leader into trivial affairs, for the people must ever hold their leaders high in estimation out of respect to their honorable positions.”

-From the twenty-seventh wampum, Great Law of Peace

“... they shall select one who is trustworthy, of good character, of honest disposition, one who manages his own affairs, supports his own family, if any, and who has proven a faithful man to his Nation.”

-From the fifty-third wampum, Great Law of Peace

These words represent the values and ideals that the nations of the Confederacy agreed should be embodied in those responsible for their affairs. To this day, those words continue to embody the values and ideals of the elected and appointed officials responsible for the affairs of the On[^]yote>a-k@.

The values and ideals that we seek for our Government Officials are also embodied in the words of Handsome Lake:

“He who created us appointed that there should be leaders and that they should do good for the people. So they said and he said. Eniaiehuk.”

-From the Code of Handsome Lake, Section 32

“Now another message to tell your people. [...] Love one another and do not strive for another's undoing. Even as you desire good treatment, so render it. So they said and he said. Eniaiehuk.”

-From the Code of Handsome Lake, Section 10

“Leaders have spoken derisively of each other and quarreled. What they have done must not be done again. So they said and he said. Eniaiehuk.”

-From the Code of Handsome Lake, Section 42

The Elected and Appointed Officials of the Oneida Tribe should not just seek to obey the specific rules set out in the following Code of Ethics. The philosophies and values which have been ours since our Creation as a People should be honored as well. Our fundamental perspective is not replaced by this Code of Ethics; but instead must exist in harmony with this Code, just as it must exist in harmony with the Principles of the Good Mind.



3.1. Purpose and Policy

3.1-1. *Purpose.* The purpose of the Code of Ethics is as follows:

(a) To set forth the very minimum standards of conduct which are expected of the Tribe's elected and appointed Government Officials and Political Appointees. ~~It is intended that Government Officials shall exceed these minimum standards. The Tribe recognizes that the concept of ethical conduct encompasses action as well as the failure to act in certain circumstances. It is intended that Government Officials and Political Appointees exceed these minimum standards and that all action or inactions must be in line and abide by the laws and policies of the Tribe.~~

(b) To strengthen accountability and promote public trust in the government by establishing a standardized, open process for addressing allegations of ethical misconduct.

3.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to promote the highest ethical conduct in all of its ~~elected and appointed~~ Government Officials and Political Appointees.

3.2. Adoption, Amendment, Repeal

3.2-1. This Law was adopted by the Oneida Business Committee by Resolution BC-11-23-94-A and amended by Resolution BC-09-27-06-E and _____.

3.2-2. This Law may be amended or repealed only by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

3.2-3. 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.

3.2-4. 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.

3.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

3.3. Definitions

3.3-1. This section shall govern the definitions of words or phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Clear and convincing evidence standard" means something is substantially more likely true than not.

(b) "Frivolous" ~~shall~~ means without legal merit and brought in bad faith for the purpose of harassing or damaging the reputation of ~~a~~ the Government Official or Political Appointee.

(c) "Gift" ~~shall~~ means any gratuity, honoraria, favor, gift card, discount, non-Oneida stipend, or other item having monetary value.

(d) "Government Official" ~~shall~~ means any person who is elected to the Oneida Business Committee, and any other person who is elected or appointed to a Tribal board, committee, or commission created by the Oneida Business Committee or Oneida General Tribal Council. For the purposes of this Code, ~~except~~, this shall also apply to Judges of the Judiciary.

(e) "Immediate family" means that group of persons who make up a family unit normally defined as husband, wife, children, sister, brother, in-laws, step family, grandparents and

grandchildren, and/or a person who has legal responsibility for a member of their immediate family.

(f) “Official duty” means when a Government Official or Political Appointee is acting in their official capacity.

(g) “Political Appointees” means an individual appointed by an elected official to serve in his or her office for the duration of the term.

(h) “Preponderance of the evidence standard” shall mean that something is more likely than not to be true, or the more convincing of two conflicting ideas.

(i) “Respondent” means a Governmental Official or Political Appointee who is alleged to have violated this Code and the matter has proceeded to a hearing under 3.9 of this Code.

(j) “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.

SUBCHAPTER I - RULES

3.4. Standards for Government Officials—

3.4-1. The Tribe’s expectation is that Government Officials and Political Appointees shall demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all activities in order to inspire public confidence and trust in each Government Official, Political Appointee and in the Tribe.

3.4-2. ~~A~~ Government Officials and Political Appointees shall:

(a) maintain an independent and honorable political system;

(b) utilize the Good Mind Principles;

(c) observe high standards of conduct and require similar conduct of employees subject to the Official or Political Appointee’s direction and control. High standards of conduct include, but are not limited to the following:

(1) practicing respect and professionalism;

(2) being patient, dignified and courteous to constituents, ~~other~~ Officials, and others with whom ~~the a~~ Government Official or Political Appointee interacts; and

(3) giving to every person who is interested in an issue, time to be heard.

(d) support and adhere to the laws, customs, and traditions of the Tribe as well as applicable state and federal law;

(e) protect privileged or confidential information to which ~~the a~~ Government Official or Political Appointee has access in the course of official duties, and be prudent in the use of information acquired in the course of his or her duties; and

(f) not use privileged or confidential information for any personal gain, or in a manner which would be detrimental to the welfare of the Tribe.

3.4-3. A Government Official or Political Appointee shall disqualify himself or herself from voting or participating in a proceeding or action where the impartiality of the Government Official might reasonably be questioned. ~~Situations which may cause the Government Official’s impartiality to be questioned could include,~~ These include, but are not limited to, the following:

(a) personal bias which would unreasonably effect a Government Official’s or Political Appointees’ final decision or action in regard to performing his or her duties.;

(b) knowledge that a Government Official or Political Appointee ~~individually~~ or any member of his or her immediate family, spouse's immediate family, or anyone residing in his or her household has a financial interest in the subject matter of a proceeding or action, or has any other interest that could be substantially affected. Provided that, a Government Official disqualified by the above may, instead of withdrawing, disclose on the official record the basis of his or her disqualification, and if every member of the board, committee or commission, based on such disclosure, agrees unanimously that the Government Official's participation is not prejudicial or that the financial interest is unsubstantial, the Government Official is no longer disqualified and may participate in the proceeding or action.

(c) participation in an action or decision-making, except where participation is in accordance with the traditions of the Tribe that would present an appearance of conflict of interest or an actual conflict of interest.

3.4-4. A Government Official or Political Appointee may participate in civic and charitable activities, but he or she shall ensure the risks of conflict or interference with duties of his or her office are minimized, and also ensure that those activities do not detract from the dignity of the office.

(a) ~~The A~~ Government Official or Political Appointee shall, at all times, act in a manner that promotes public confidence in the honesty and impartiality of his or her office, including, but not limited to avoidance of the following:

- (1) improperly influencing conduct of family, social or other personal relationships for personal gain in his or her position or office;
- (2) using prestige of the office to advance the private interests of others;
- (3) using his or her position to improperly influence employees, boards, committees or commissions; and
- (4) any situation that could cause a reasonable person to perceive that the Government Official is improperly influenced.

3.4-5. A Government Official shall avoid improper financial dealings that would tend to reflect an influence for his or her own best financial interest, including, but not limited to:

- (a) dealings that could affect his or her impartiality as a Government Official, or that could interfere with the Government Official's performance of official duties, or that could appear to exploit his or her governmental office;
- (b) involvement in businesses that have financial impact or other influence on Tribal businesses or actions; and
- (c) granting, giving, or influencing the gift, bequest or loan of Tribal services, property or monies.

Exceptions shall be allowed for laws and policies that directly allow the participation of a Government Official, or where the traditions of the Tribe allow participation.

3.4-6. The Government Official is responsible for his or her actions. For each, integrity is a personal responsibility and no one may justify an illegal act by claiming it was ordered. No one, regardless of rank, is ever authorized to direct another Government Official or an employee to commit an illegal or unethical act.

3.5. Media/Public Relations

3.5-1. A Government Official has the duty and responsibility to keep the public informed of Tribal activity. The Government Official shall observe high standards of accuracy, honesty and diligence when making public statements.

3.5-2. A Government Official is a representative of the Tribe, acting on behalf of the people. As such, each Government Official shall actively engage in opportunities to communicate with the membership, both to share and to gather information.

~~3.5-3. Each Government Official is encouraged to meet with clubs, conventions, conferences, special interest groups, school groups, and other gatherings when not on official duty.~~

3.6. Gifts

3.6-1. **General Prohibition.** ~~When on official duty, a Government Official is encouraged to meet with clubs, conventions, conferences, special interest groups, school groups and other gatherings if it is in the best interests of the Tribe.~~ Except as provided in this section, a Government Official or Political Appointee shall never use his or her position or office, directly or indirectly, to solicit or accept a gift:

(a) 3.6-2. No Government Official may use his or her position or office, or receive any gift over a cash value of one hundred dollars (\$100) for the private financial gain of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

(b) 3.6-3. A Government Official shall not solicit or accept, directly or indirectly, any gift of value and no person may offer to give, or actually give to any Government Official, any gift of value, if the gift could reasonably be expected to influence the vote, official actions or judgments of the Government Official or Political Appointee, or could reasonably be considered a reward for any official action or inaction.

~~3.6-4. If the value of a gift to a Government Official exceeds a cash value of one hundred dollars (\$100), the recipient shall keep a record of and report that gift to the Audit Department. Gifts shall be reported to the Audit Department on a regular basis, provided the minimum reporting schedule is semi-annually.~~

3.6-25. If the a gift received is offered to the Government Official or Political Appointee to accept on behalf of for the Tribe or a gift to the Government Official or Political Appointee that is not prohibited under 3.6-1, the Government Official or Political Appointee shall may accept theat gift provided that he or she follows the process below: .-

(a) Within ten (10) days of the receipt of the gift, the Government Official or Political Appointee shall notify the Secretary's Office of the receipt and and turn possession of the giftit over to the Accounting Department.

(b) Monetary Gift. If the gift is monetary, it shall be added to the General Reserve Fund.

(c) Non-Monetary Gift. If the gift is not cashmonetary, the Oneida Business Committee shall evaluate the gift for artistic, historic and cultural importance. If the Oneida Business Committee finds artistic, historic or cultural importance, that Committee shall determine where the gift should be displayed or stored. If there is no artistic, historical or cultural

importance, the gift it shall be raffled off and the funds from the raffle turned over to the General Reserve Fund.

(d) The Oneida Business Committee may develop a SOP that allows recipients to earmark the value of gifts under this section to a particular area within the community.

~~3.6-6. Government Officials need not make a report of gifts that are:~~

~~(a) Conveyed during a traditional tribal ceremony or wedding.~~

~~(b) Conveyed during an official ceremony of the Tribe.~~

~~(c) Conveyed during a pow-wow.~~

~~(d) Valued at an estimated cash value of one hundred dollars (\$100) or less.~~

~~3.6-37.~~ Travel. If, while on travel for the Tribe the Government Official is paid a per diem for food, lodging or mileage, or is reimbursed for those expenses by another entity, the Government Official shall accept that per diem or reimbursement and turn the ~~full~~ amount received over to the General Reserve Fund if the Tribe has also paid for the same expenses of the Government Official.

~~3.6-84.~~ Double Payment. To avoid double payment by an organization and the Tribe or an organization within the Tribe, when participating in an extra-governmental event, ceremony or similar function while on official duty, the Government Official may accept either:

(a) only a ~~cash~~ monetary gift for participating in an extra-governmental event, ceremony or similar function; or

(b) only regular work pay/salary.

~~3.6-9.~~ If the Government Official chooses to accept his or her regular work pay/salary pursuant to ~~3.6-48~~(b), the Government Official shall still accept a monetary ~~cash~~ gift that is offered from the other entity and shall turn it over to the General Reserve Fund.

3.6-5. Reporting. When a gift of any variety or value is received, the Government Official or Political Appointee shall report the gift to the Tribal Secretary's Office within ten (10) business days of the receipt of the gift.

3.6-6. Public Information. Information concerning gifts shall be made available from the Tribal Secretary's Office upon the request of a Tribal Member.

SUBCHAPTER II - ENFORCEMENT

3.7. Enforcement-General

3.7-1. Applicability. The ethical requirements of this Law are applicable to Government Officials who are currently in office and Political Appointees that are currently in their appointment. ~~The Tribe expects~~ Government Officials, community members and employees of the Tribe ~~to may~~ report any known violation of this Law, as well as any other dishonest or illegal acts of which the person becomes aware in the government office or the workplace.

3.7-2. Retaliation. Government Officials and Political Appointees shall not engage in, nor condone, reprisals against any person who, in good faith, makes such reports.

3.7-3. Confidentiality. Prior to the release of the decision, all alleged violations shall remain confidential and only disclosed to the parties within the process and legal counsel, if any, for those

parties. Any employee or member of the panel violating this confidentially prior to the release of the decision may be subject to the fines.

3.8. Complaints

3.8-1. The filing of a complaint is limited to Tribal members, current employees of the Tribe, former employees that had worked for the Tribe within the last thirty (30) days and those doing business with the Tribe. At a minimum the complaint must:

- (a) Be in writing, dated and properly verified.
- (b) Statements must be simple, concise and direct.
- (c) Include the name and address of the filing party
- (d) Include the name and position or title of the respondent
- (e) List the nature of the alleged violation and the facts alleged to give rise to the complaint.
- (f) The complaint may not contain innuendo, speculative assertions or conclusory statements.

~~3.8-2. Process. The process to enforce this Law shall be in accordance with the following:~~

~~(a) A complaint shall be filed with the Peacemaking and Mediation Division of the Judiciary within thirty (30) calendar days of when the complainant knows of a violation, or reasonably should have known of a violation of this Law. The complaint shall be in writing and signed by the complainant. The complaint shall clearly state the Government Official(s) that is alleged to have violated this Law, the section(s) of this Law that have been violated and shall include appropriate documentation to support the alleged violation(s).~~

~~3.8-3. (b) Within five (5) business days of the complaint being filed, a copy of the complaint shall be served by the Judiciary with upon the Tribal Secretary's office and the Government Official(s) against whom the complaint is brought of the receipt of the complaint, which shall then forward the complaint within five (5) business days to the Government Official(s) against whom the complaint is brought.~~ If the complaint is against the Tribal Secretary, said complaint shall be served with the Tribal Chairperson's or Vice Chairperson's office, which shall then forward the complaint to the Secretary.

~~3.8-4. (e)~~ Within twenty (20) calendar days of the filing of the complaint, the Peacemaking and Mediation Division of the Judiciary shall conduct an initial review of the complaint and the accompanying documents and determine if there is enough evidence to move forward with a complete hearing on the merits of the complaint. If the complaint is against more than one (1) Government Official or Political Appointee, the Peacemaking and Mediation Division of the Judiciary shall determine if each Government Official shall have their own hearing, or if there shall be one (1) hearing for all Government Officials or Political Appointee named in the complaint.

~~3.8-5. (d)~~ If the Peacemaking and Mediation Division of the Judiciary determines there is not enough evidence to move forward with a hearing on the merits of the case, the Peacemaking and Mediation Division of the Judiciary shall dismiss the complaint and have a hearing to determine if the complaint is frivolous in accordance with this Code, section 3.8 and if so, make an appropriate order for penalties.

~~3.8-6. (e)~~ If the Peacemaking and Mediation Division of the Judiciary determines there is enough evidence to move forward, the Peacemaking and Mediation Division of the Judiciary shall

~~convene request a pPanel be convened to hear the matter and a hearing date will be set. of not less than nine (9) Tribal members who are twenty one (21) years of age or older, within thirty (30) calendar days of that determination to hold a hearing on the merits of the case.~~

3.9. Panel

3.9-1. A Panel must be convened within thirty (30) calendar days of the determination in 3-8.6 to hold a hearing on the merits of the case. The Trusts/Enrollment Department shall assist in creating a panel pool of at least thirty (30) members over the age of twenty-one (21). The Peacemaking and Mediation Division of the Judiciary will mail a summons explaining that the Member has been selected to serve on the Panel, listing the date of the panel selection and the amount of stipend to be paid. The Oneida Business Committee shall set the amount of stipend and travel reimbursement in a resolution.

3.9-2. Panel Selection. The Peacemaking and Mediation Division of the Judiciary will moderate the selection process from the panel pool. The panel pool will be questioned under oath until a Panel of not less than nine (9) qualified Panelists are selected. To qualify to serve on the Panel, a member must have the following:

(a) be twenty-one (21) years of age or older;

(b) not an employee working within the Respondent's or Petitioner's area of the Tribe;

(c) does not have immediate family working within the Respondent's or Petitioner's area of the Tribe;

(d) is not immediate family to the Respondent, the Petitioner or any material witnesses;

(e) does not have personal bias against the Respondent, the Petitioner, or any witnesses which would unreasonably effect a Panelists in performing his or her duties

3.9-4. Standard of Evidence. (f) When the panel makes a determination as to the merits of the complaint, the panel shall make a decision based on the preponderance of the evidence, and it shall be a majority decision. The burden of proof rests with the party that filed the petition and there is a presumption of innocence towards the Respondent. The Panel shall make a decision based on a clear and convincing standard of the evidence presented.

3.9-5. Hearing. The hearing to determine whether this Code has been violated shall be conducted expeditiously and fairly. A Respondent shall have the right to, at his or her expense, be represented by Counsel of his or her choice. The hearing may be conducted in an informal manner, but the decision must be based solely upon the evidence produced at the hearing.

3.9-6. Decision. A final decision of the Panel shall be unanimous as to the merits of the complaint. The Panel shall have up to forty-five (45) days from the conclusion of the hearing to come to a decision. A decision shall include a finding on the merits of the complaint and recommendation of penalties. After a decision is made by the panel, the panel shall forward the findings and recommendations to the Peacemaking and Mediation Division of the Judiciary.(g) Upon receiving the findings and recommendations from the panel, the Peacemaking and Mediation Division of the Judiciary shall:-

(1) enter the findings and recommendations from the panel as a final order, which shall include the panel's decision as to penalties, for enforcement exactly as decided by the panel; and

—————(2) forward the findings and final order to the Kalihwisaks for public notice.

~~_____ (3) forward the findings and final order to the following for implementation:~~

~~_____ (A) the Chairperson of the Board, Committee or Commission;~~

~~(B) in the case where the findings and final order are against the Chairperson of a Board, Committee or Commission, to the Chairperson of the Business Committee;~~

~~(C) in case where the findings and final order are against a member of the Business Committee, to the Chairperson of the Business Committee;~~

~~(D) in the case where the findings and final order are against the Tribal Chairperson, to the Tribal Vice Chairperson;~~

~~(E) in the case the findings and final order are against the entire Business Committee, to the Human Resource Department.~~

~~3.7-3. Penalties for violations may include any or all of the following,~~

~~depending on the severity of the violation(s):~~

(a) ~~A written warning issued by the panel, which includes citing of the Tribal expectations in accordance with this Law and written acknowledgement of those expectations; and/or~~

(b) ~~A public apology as directed by the panel; and/or~~

(c) ~~A fine of up to five hundred dollars (\$500) for the first violation and up to fifty dollars (\$50) for each subsequent violation per complaint to be paid to the Tribe's General Fund; and/or~~

(d) ~~Forfeiture of up to two (2) weeks' pay for a full- or part-time Government Official or Political Appointee, or a stipend withholding of not more than six (6) stipends for a Government Official who receives a stipend for his or her services; and/or~~

(e) ~~Restitution as directed by the panel to the person(s) who has been harmed or to the Tribe's General Fund; and/or~~

(f) ~~Other cultural restitution as deemed appropriate; and/or~~

(g) ~~Recommendation of termination of appointment for an appointed Government Official:~~

~~(1) Termination recommendations made by the panel must be a unanimous decision, and~~

~~(2) May only be recommended after the Government Official has been sanctioned three~~

~~(3) separate times during any one (1) current term of a Government official, or~~

~~(3) The nature of the violation is egregious and warrants deviation from three (3) implemented sanctions; or~~

(h) ~~Recommendation of removal from office for an elected Government Official:~~

~~(1) Removal recommendations made by the panel shall be a unanimous decision, and~~

~~(2) May only be recommended after the Government Official has been sanctioned three~~

~~(3) separate times during any one (1) current term of a Government Official, or~~

~~(3) The nature of the violation is egregious or violates section 4.4 of the Removal Law and warrants deviation from three (3) implemented sanctions.~~

~~(4) If the panel recommends removal, Sections 4.5, 4.6 and 4.7 of the Removal Law shall be deemed to be satisfied, and the Removal process shall commence at section 4.8 which requires the calling of a special General Tribal Council meeting.~~

3.9-7. After a decision is made by the panel, the panel shall forward the findings and recommendations to the Peacemaking and Mediation Division of the Judiciary. If no decision has been reached within the forty-five (45) days, a finding of a no-decision will be entered by the Peacemaking and Mediation Division of the Judiciary.

3.9-8. Upon receiving the findings and recommendations from the panel, the Peacemaking and Mediation Division of the Judiciary shall:

- (a) evaluate the findings and recommendations from the Panel to ensure that it complies with this Code and can be entered as a final order.
- (b) enter the findings and recommendations from the Panel as a final order, which shall include the Panel's decision as to penalties, for enforcement exactly as decided by the panel.
- (c) forward the findings and final order to the Kalihwisaks for public notice.
- (d) forward the findings and final order to the following for implementation:
 - (1) in the case where the findings and final order are against a member of a Board, Committee or Commission, to the Chairperson of the Board, Committee or Commission;
 - (2) in the case where the findings and final order are against the Chairperson of a Board, Committee or Commission, to the Chairperson of the Business Committee;
 - (3) in the case where the findings and final order are against a member of the Business Committee, to the Chairperson of the Business Committee;
 - (4) in the case where the findings and final order are against the Tribal Chairperson, to the Tribal Vice-Chairperson;
 - (5) in the case where the findings and final order are against the entire Business Committee, to the Human Resource Department.
 - (6) in the case where the findings and final order are against a Political Appointee not classified in any of the categories above, to the individual with authority over the Political Appointee.

3.9-9-4. If an elected Government Official is removed or an appointed Government Official is terminated due to a violation of this Law, he or she shall be prohibited from running for election or being appointed to any committee, commission or board for a period of ten (10) years from the date of his or her removal or termination.

3.108. Frivolous Complaints

3.108-1. When determining whether or not a complaint is frivolous, the Peacemaking and Mediation Division of the Judiciary shall consider whether the filing of the complaint was part of a pattern of activity or an isolated event. The Peacemaking and Mediation Division of the Judiciary shall determine that the complaint was frivolous by a preponderance of the evidence standard.

3.108-2. When the Peacemaking and Mediation Division of the Judiciary determines a complaint does not have enough evidence to move forward and is frivolous, the complaint shall be dismissed and the Peacemaking and Mediation Division of the Judiciary shall forward the findings and final order to the Kalihwisaks for public notice.

3.108-3. The complainant shall be subject to any or all of the following penalties, depending on the severity of the finding of frivolousness:

- (a) barred from bringing complaints against the same Government Official(s) for a period of one (1) year;

(b) punitive damages of up to five thousand dollars (\$5,000) per complaint to be paid at the discretion of the Peacemaking and Mediation Division of the Judiciary;

(c) payment of the Government Official or Political Appointee's attorney's fees paid to defend himself or herself against the complaint; and/or

(d) other cultural restitution as deemed appropriate by the Peacemaking and Mediation Division of the Judiciary.

3.108-4. In addition to the penalties imposed in accordance with this Law, a person who files a frivolous complaint against a Government Official may also be subject to a personal civil suit by the Government Official in either state or Tribal court.

3.119. Appeal Rights

3.119-1. Any Government Official or Political Appointee who has been found to have violated this Law, or any person who was found to have filed a frivolous complaint, may appeal that decision to the Court of Appeals in accordance with the Judiciary's Rules of Appellate Procedure. A decision by the Peacemaking and Mediation Division of the Judiciary that there is not enough evidence to proceed on the complaint is final and cannot be appealed.

3.120. Reporting

3.120-1. The Judiciary shall submit all Code of Ethics complaints and respective outcomes as a component of the report for the Annual and Semi-Annual GTC Reports.

Adopted - BC-11-23-94-A

Emergency Amendment - BC-04-12-06-JJ

Amended - BC-09-27-06-E (adoption of emergency amendment)

Amended – BC-



Legislative Operating Committee

November 4, 2015

Oneida Flag Policy

Submission Date: April 22, 2015

☒ Public Meeting: 10/01/2015

☐ Emergency Enacted:

LOC Sponsor: Jennifer Webster

Summary: *The OBC requested that the LOC develop a flag code policy. ONVAC received complaints from non-Tribal members about how the Tribal Flag is displayed. ONVAC's concerns are there is no protocol for those who oversee flag responsibilities to follow, no one is identified as the person that has the authority to lower the flag to half-staff, what should the height and position of the Tribal Flag be compared to the US Flag, etc.*

4/22/15 OBC: Motion by Jennifer Webster to request the Legislative Operating Committee to develop a flag code policy and consider adding it to the active files list, seconded by Lisa Summers. Motion carried unanimously.

5/6/15 LOC: Motion by Jennifer Webster to add the Tribal Flag Code to the active files list with herself as the sponsor and defer the Tribal Flag Code to a Legislative Operating Committee work meeting; seconded by Fawn Billie. Motion carried unanimously.

6/8/15: Work Meeting held. Attendees included John Breuninger, Kerry Metoxen, Lynn Franzmeier, Candice Skenandore, Brandon Stevens, Tehassi Hill, Jenny Webster, Fawn Billie, Danelle Wilson, David Jordan, Apache Danforth, RC Metoxen.

6/30/15: Work Meeting held. Attendees included John Breuninger, Douglass McIntyre, Candice Skenandore.

7/1/15 LOC: Motion by David P. Jordan to accept the memorandum regarding the Flag Code update as FYI; seconded by Tehassi Hill. Motion carried unanimously.

7/24/15: Work meeting held. Attendees included Jennifer Webster, David P. Jordan, Candice Skenandore, Douglass McIntyre.

8/5/15 LOC: Motion by Tehassi Hill to defer the Oneida Flag Policy for a legislative analysis and a fiscal impact statement and bring back in two weeks; seconded by David P. Jordan. Motion carried unanimously.

8/19/15 LOC: Motion by David P. Jordan to accept the legislative analysis, extend the financial impact statement, and direct the Legislative Reference Office to bring the Oneida Flag Code back to the next LOC meeting, to set a date for a Public Meeting, and to make the changes from "Oneida Nation" back to "Oneida Indian Tribe of Wisconsin"; seconded by Fawn Billie. Motion carried unanimously.

9/2/15 LOC: Motion by Jennifer Webster to forward the current draft and analysis of the Oneida Flag Policy for a public meeting to be held on October 1, 2015; seconded by Fawn Billie. Motion carried unanimously.

10/1/15: Public meeting held.

Next Steps:

- Accept the public meeting comments and either:
 - review and direct changes to the draft based on these comments; or
 - defer the review to a November 6, 2015 work meeting.

**Oneida Tribe of Indians of Wisconsin
Legislative Reference Office**

Krystal L. John, Staff Attorney
Douglass A. McIntyre, Staff Attorney
Taniquelle J. Thurner, Legislative Analyst
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Memorandum

TO: Legislative Operating Committee
FROM: Douglass A. McIntyre, Staff Attorney
DATE: November 4, 2015
RE: Oneida Flag Policy: Public Meeting Comment Review

On October 1, 2015, a public meeting was held regarding a new proposed policy: the Oneida Flag Policy. This Policy would:

- Create a Flag Policy to set forth the proper rules concerning the display and customs of the flag of the Oneida Nation, the flag of the United State of America and of other Sovereigns displayed by the Nation's entities and employees. This Policy:
 - Requires all current and future Oneida Tribal entities and Tribally-owned buildings on the Reservation that fly the Flag to do so pursuant to this Policy;
 - Identifies who is responsible for Flag duties and if an employee violates this Policy, he/she can be disciplined;
 - Lists the requirements for how the Flag is to be displayed;
 - Explains how the Flag is to be respected;
 - Identifies how the Flag is to be displayed outside of the Reservation.

This memorandum is submitted as a review of the comments received at a presentation of the Flag Code Policy on September 17, 2015 before a gathering of various veterans groups, comments received during the public meeting process, and written comments received before the comment period ended on October 8, 2015. The public meeting draft with comments, as well as the transcripts and written comments received, have been attached for your review.

Comments 1. Purpose.

Ted Clymer: I just need to give you a little bit of background and so on, I'm not from Wisconsin. I've been here since 2000. I picked up a job with a Congressionally Chartered Veteran's Organization called the Military Order of the Purple Heart where my job is the Sargent-at-Arms, responsible for flying the flags, what they call the colors and so I started looking around. We meet over at the Oneida VFW, inside the boundaries of the Reservation. In looking at how flags were displayed, once I took this job I started noticing that there were flags being flown in different manners as I would drive in through 172 to get to the VFW hall. So that's what started the whole thing and my interest in this was that I want to make sure I do my job as a guest as I enter into the Reservation that I would honor the sovereignty of that nation who I've just come into to make sure that I'm going to flying the flags that I fly with my everyday duties along the flags of the sovereign nation whose borders I've just crossed so that I will be doing so in a manner that is honorable and in accordance with international flag protocol.

That is what started me on this thing. When I first came in here it looked and I notice that there were flags being flown at different heights. And this raised a question at first about a year or so ago because I saw the United States flag, the flag of the United States, the Nation, being flown at one height and then lower than that I saw the flag of the Oneida Nation being flown on a staff that is lower as I was driving through 172 over at the bingo hall and then at the health care center and the daycare center and so on. I saw the same thing at the VFW and then later on as I went to the Oneida Veteran's Memorial I saw the same thing again, the United States flag was higher and the flag of the sovereign Oneida Nation of Wisconsin was lower, not of the same height. So my first question to the Veterans who I was dealing with was is the sovereign, is the Oneida Nation a real nation? You know, and I thought was a valid question simply because of the manner in which the flags were displayed. And I was assured that the Oneida Nation is in fact a sovereign nation so therefore I said well ok the way that the flags are being flown, nations recognize other nations by the manner in which their flags are flown at the same height. Non-nation entities can be, flags of non-nation entities can be flown equal to the flags of nation entities or lower but nations always fly their flags at the same height as other nations fly their flags. In the United States Flag Code, Title IV, United States Code, Part VII, paragraph (g), it very simply says for my purposes as a purple heart flying the United States flag, it says flags of two or more nations shall be flown on staffs, on separate staffs, of the same height. And it's considered to be dishonorable to fly flags of nations at any height other than being of the same. And by height, I'm talking about the top of the flag pole themselves because flags are always driven all the way up to the top of a pole unless they're ordered down at half-mast for you know, presenting honors for whatever, someone who has died or something like that. So they're always flown at the top and the flag poles themselves, the tops of the poles or the flag staffs are always supposed to be of equal of the same height. The difference between a flag pole and a flag staff is roughly that a pole is buried into the ground and fixed and a flag staff would be something like what you have right here next to you on stage where you have something that can be picked up, moved, used in a parade and then put on a pedestal and that kind of stuff. So I started asking questions of the Nation and was assured from various locations from both the Veterans I talked to and the people in your administration office that you are a sovereign nation so based upon that, I found out that you did not have a Flag Code and so the way that it works for me in my job as the Sargent-at-Arms is that when I take the United States flag into another nation and fly the United States flag along with my duties for the Military Order of the Purple Heart, I honor the nation, the host nation by flying the flag of that host nation in first place of honor, in first place of prominence followed by the United States flag because I'm in someone else's house. And it's the honorable thing to do. So that's the background for why I'm even here and concerned and so on. I started looking at, and I did send some emails about some of the things you put into the Flag Code or the proposed Flag Code and do I address those by reading them or was it sufficient to send them into you?

Response

The commenter describes his backroom and explains that significance of the height of Flags in other Nations. There are no recommended changes based on this comment.

Comment 2. Analysis Lines 31, 32, and 33.

Ted Clymer: *written*-Subject: LINES 31, 32, and 33 contain a FALSE STATEMENT.

LINES 31, 32, and 33 contain a FALSE STATEMENT.

"This Policy is only requiring the US flag be flown at the same height as the Flag and DOES NOT ALLOW FLAGS OF OTHER NATIONS TO BE FLOWN AT THE SAME HEIGHT as the Flag."

Reference: Title 4 U.S.C. §7. Position and manner of display

(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

Response

The commenter points out a line in the analysis that reads:

30 When a nation's flag is displayed, Federal Flag Code requires that flag to be
 31 flown at the same height as the US flag. This Policy is only requiring the US flag
 32 be flown at the same height as the Flag and does not allow flags of other nations
 33 to be flown at the same height as the Flag [See 6-3 (a) and CRS Report
 34 for Congress: The United States Flag § 7 (g)].

This point of the analysis is discussing that the Oneida Flag Policy currently does not allow flags of other Nations aside from the United States flag to be flown at the same height as the Oneida flag. There are no recommended changes based on this comment, however further changes to the body of the Policy concerning this are specified in comments 9, 10 & 11.

Comment 3. Haudenosaunee Flag.

Veteran's Meeting: #4. Where does the Haudenosaunee flag fall into this Policy?

Response.

As written, the Haudenosaunee flag is not accounted for in the Policy. It is a policy decision for the LOC if the Haudenosaunee flag should be included and where it would fall into the hierarchy of positions.

Comment 4. Sovereigns definition.

Ted Clymer: Subject: PROBLEM in LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES.

See LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES. The word LOCALITIES should be removed from LINE 85. The Sovereign STATE of Wisconsin is NOT a Sovereign NATION. The Sovereign STATE of Wisconsin is a SUB-Element of a Sovereign NATION, the United States of America. The Village of Hobart is a LOCALITY that is NOT a Sovereign NATION. The Village of Hobart is a LOCALITY that is SUB-SUB-Element of the Sovereign STATE of Wisconsin. Since the Village of Hobart is a LOCALITY, LINE 85 may be read to mean the Oneida Nation recognizes the Village of Hobart to be a Sovereign entity. To avoid misconception, the word LOCALITIES should be removed from LINE 85.

Response

The commenter is referring to the definition of sovereigns which reads “means any other Indian Nation, State or localities.” One of the definitions of sovereign is “having independent authority and the right to govern itself.” However, to avoid confusion it is recommended that “sovereigns” be removed as a definition and the Policy edited at 6-3(e) and 7-1 to read:

6-3 (e) When flags of States, localities ~~other Sovereigns~~ or pennants of societies are flown on the same halyard with the Oneida Flag, the Oneida Flag shall always be at the top.

7-1. No disrespect shall be shown to the flag of the Oneida Nation, the United States flag or the flags of any other Indian Nation, State or locality ~~other Sovereigns~~.

Comment 5. Properly Illuminated definition.

Veteran’s Meeting: #3. What is considered “properly illuminated”?

Response.

The comment indicates that “properly illuminated” should be defined to avoid confusion. It is suggested that the following definition be added:

(d) “Proper illumination” means a light specifically placed to illuminate the flag or having a light source sufficient to illuminate the flag so it is recognizable as such by the casual observer.

Comment 6. Location of Display.

Ted Clymer: *written*-Please consider this suggested LOCATION OF DISPLAY for the Oneida Flag Policy.

Location of Display. The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag shall be displayed within the boundary of the Reservation of the Oneida Nation:

- a. in the Office of the Chairperson of the Oneida Nation;
- b. in Oneida Nation courtrooms while court is in session;
- c. at the Annual meeting, and the Semi-Annual meeting;
- d. at Oneida General Tribal Council (GTC) meeting;
- e. at Oneida Nation School Board meeting;
- f. at polling places when citizens vote;
- g. at the Oneida Veterans Memorial;
- h. at a Pow Wow;
- i. at a public meeting;
- j. outside the Norbert Hill Center;
- k. outside the Oneida Nation Police Department;
- l. outside Oneida Nation Schools;

- m. outside the Oneida Casino and the Oneida Bingo hall;
- n. at Austin Straubel International Airport;
- o. as directed by the Chairperson of the Oneida Nation or the Oneida General Tribal Council (GTC)

Response

The commenter suggests incorporating additional locations in the Policy where 1) the Haudenosaunee Flag, 2) the Oneida Nation Flag, 3) the United States Flag, and 4) the State of Wisconsin Flag should be displayed.

Currently, section 4-2 only requires “Oneida Nation entities and Oneida owned buildings within the Reservation that currently possess flagpoles, stationary flagstaffs or other means to display a flag and those entities and Oneida owned buildings that later establish the means to display a flag” to follow the policy and the Policy only requires the Oneida Flag to be displayed. Additionally, the Policy does provide in 6-1 (d) and (e) for the Oneida Flag inside each classroom and in and near every polling place on Tribal election days.

Some of the locations the commenter listed already displays one or more of the flags in the suggestion.

	Haudenosaunee Flag	Oneida Nation Flag	United States Flag	Wisconsin Flag
Y = Yes N = No U = Unknown = Required to have under the policy				
a. in the Office of the Chairperson of the Oneida Nation;	U	U	U	U
b. in Oneida Nation courtrooms while court is in session;	U	Y	Y	Y
c. at the Annual meeting, and the Semi-Annual meeting;	N	Y	Y	Y
d. at Oneida General Tribal Council (GTC) meetings;	N	Y	Y	Y
e. at Oneida Nation School Board meeting;	N	N	N	N
f. at polling places when citizens vote (outside Health Center);	N	Y	Y	Y
g. at the Oneida Veterans Memorial;	N	Y	Y	Y
h. at a Pow Wow;	U	Y	Y	Y

i. at a public meeting (LOC/OBC meetings in the BCCR);	N	Y	Y	N
j. outside the Norbert Hill Center;	N	Y	Y	N
k. outside the Oneida Nation Police Department;	N	Y	Y	Y
l. outside Oneida Nation Schools (high school is located at Norbert Hill Center so this applies to Turtle School);	Y	Y	Y	N
m. outside the (main) Oneida Casino	N	Y	Y	Y
and the Oneida Bingo hall;	N	N	Y	N
n. at Austin Straubel International Airport;	U	U	U	U
o. as directed by the Chairperson of the Oneida Nation or the Oneida General Tribal Council (GTC)	Not currently provided for in the Policy			

In the work meetings, the issue on mandating certain locations fly flags was discussed and it was decided to use the language in section 4-2 to make it a requirement for only those currently equipped to do so and those who become later become equipped. The main reason was to avoid additional costs that would come from requiring specific locations to display the Oneida flag that could hamper the passage of the Policy.

This is a policy decision for the LOC if it wishes to require the Haudenosaunee Flag, the Oneida Flag, the United States Flag, or the State of Wisconsin Flag to be displayed at any of the locations in the chart above.

Comment 7 & 8. Position and Manner of Display.

Comment 7. Ted Clymer: *written*-Subject: Please consider this suggested POSITION OF DISPLAY for the Oneida Flag Policy.

Position and manner of display.

1. Eagle Staffs shall be displayed in the first place of superior prominence and honor in front of all Flags.
2. The Haudenosaunee Flag shall be displayed to the furthest right (the viewer's left) of the Oneida Nation Flag.
3. The Oneida Nation Flag shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the Haudenosaunee Flag.
4. The United States Flag shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the Oneida Nation Flag.
5. Flags of other Nations shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the United States Flag.
6. The State of Wisconsin Flag shall be displayed at the same height or at a lower height and to the flags left (the viewer's right) of flags of other Nations or the United States Flag.

7. All other flags shall be displayed at the same height and to the flags left (the viewer's right) of the State of Wisconsin Flag

Comment 8. Ted Clymer: *written*-Where the Eagle Staff was the only symbol of Sovereignty before Indian Nations used flags, the Oneida Nation Flag is used as a symbol of Sovereignty today; but the Eagle Staff always leads the way.

The Haudenosaunee Flag recognizes a confederation of Indian Nations much like the United States Flag recognizes a confederation of the original 13 colonies into the Nation that is the United States of America.

The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag should be displayed as a minimum group of flags because, together, they tell the history of Sovereignty of the Oneida Nation.

When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

State flags and all other flags may be displayed at the same height as flags of Nations or at a lower height.

Response

The commenter provides a suggested hierarchy including the Eagle Staff, the Haudenosaunee flag, flags of other Nations and the state of Wisconsin's flag which is not currently in the Policy. The commenter further provides reasoning in the second comment. Currently, the Policy reads:

6-3. *Position of the Flag.* The position of a flag among others is an important symbol of prominence and sovereignty, therefore the following requirements must be adhered to:

- (a) Only the flag of the United States may ever be displayed at the same height as the Oneida Flag.
- (b) The Oneida Flag shall be displayed to the furthest right to show superior prominence.

Any changes based on this would be a policy decision for the LOC.

Comments 9, 10 & 11. Policy Section 6-3 (a)

Comment 9. Ted Clymer: Not that I could see right now. The one comment I had made simply about the where it says problem, I had a problem in line 120 where it says on the flag of the United States may ever be displayed at the same height as the Oneida flag. I see a problem there for example during the pow wows when you have visiting nations and when they come on in and if this line stays the way it is now, line 120 and 121 I think it ends at 121, that would mean that only those two flags can be flown at the same height but if you have visiting nations, other nations. I don't know that many of them but the Ho Chunk

would come here or the Menominee or the Oneida folks from Canada. I've attended the pow wows and you have people coming in from Canada and other places, there might be I don't know the Cherokee Nation or the Blackfeet or something, I don't know how who participates inside the Oneida Reservation and those kinds of things but that line would, if you hold it to the way its published right now, that would preclude those other nations from flying their flags at the same height and they are nations. And once again, flags of two or more nations should be flown on separate staffs of the same height. That's not only the United States flag code, it's the international flag protocols there so I think that was kind of important and that's why I put that in there. Let see, yeah that's the only one I think I needed to expand upon of the three I sent in to you. So is there...

David P. Jordan: Is that supposed to be ever or never? That word right there in that sentence. On line 120.

Douglass McIntyre: It's may ever.

David P. Jordan: May ever, ok.

Ted Clymer: So they're only talking about with only, they're only talking about those two I think.

David P. Jordan: ok

Ted Clymer: And if that's the case, because you hold international, the pow wow and so on is international, that would create a problem. Because you put penalty phase into this thing then you might be, someone might say why didn't you punish these people for allowing the visiting nations from coming on in because they did fly the flags at the same height. Example here on your podium or the stage here. If they were coming on in and you had like twenty flags, and the United States flag and the flag of the Oneida Nation would be placed in a stand and you have stands for the remaining eighteen nations, you would have to do, in order with this thing you would have to, the flag of the Oneida Nation and the flag of the United States raised on some sort of a pedestal for them to be higher than the flag of the remaining eighteen nations or you'd have to take a hacksaw and cut off the bottom of the pole that they used to carry then on in which really wouldn't be desirable. But the problem with even doing that kind of thing for a pedestal for those two and the rest of them on the ground floor, your still dishonoring the nation status of those of those nations that brought their flags because you're now putting them at different heights.

Comment 10. Loretta Metoxen: Mr. Chairman I didn't come to make any comments but I came to observe because I'm very interested in this particular topic. As a veteran and as a member of the Oneida Nation's Veteran's Affairs Committee, who has talked to the Captain [Ted Clymer] here on several occasions and he has left me his information on that. And by the way information on the eagle feather as well which we will be coming forward at a different time. So I am in agreement with his comment on all nations flags are equivalent. If you look at the Oneida, not the Oneida but the United, United Nations flags in New York. Of all the nations in the world, they are equal. And Oneida Nation should be equal to all nations. Thank you.

Comment 11. Ted Cylmer: *written*-Subject: PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag.

Please see the attached Adobe Acrobat .PDF file:

01. As written, this REQUIRES flags of VISITING NATIONS to be displayed on flag staffs or flag poles that are LOWER THAN the flag staffs or flag poles of flags of the Oneida Nation and the United States of America.

02. As written, this contradicts International Flag Protocols that say International usage forbids the display of the flag of one nation above that of another nation in time of peace.

03. Since International Flag Protocols say when flags of TWO OR MORE NATIONS are displayed they are to be flown from separate flag staffs or flag poles that are displayed AT THE SAME HEIGHT, LINE 120 really says the Oneida Nation does not allow flags of other Nations to be flown anywhere within the boundary of the Reservation of the Sovereign Oneida Nation.

Response

The Policy as written would not allow flags of other Nations or Indian Nations to be displayed at the same height as the United States and Oneida flags. It is suggested that 6-3 be changed to read:

6-3. Position of the Flag. The position of a flag among others is an important symbol of prominence and sovereignty, therefore the following requirements must be adhered to:

(a) ~~Only the flag of the United States may ever be displayed at the same height as the Oneida Flag.~~ When flags of two or more Nations are displayed, they are to be flown from separate flag staffs or flag poles that are displayed at the same height and shall be approximately of equal size.

(b) The Oneida Flag shall be displayed to the furthest right to show superior prominence.

~~(c) When the Oneida Flag and the United States flag are both displayed, they are to be flown from separate staffs of the same height and the flags shall be of approximately equal size.~~

Also the definition of Nation should be changed to refer to other , a standard definition for Tribe or Tribe provide and that change reflected in the rest of the Policy:

(b) "Nation" means ~~the Oneida Nation~~ a foreign country or a Native American Tribe.

Comment 12. Display of Respect.

Veteran's Meeting: #2. Request to add Veteran's Day and Flag Day to 6-5(a) for lowering the flag to half-staff.

Response.

6-5. *Display of Respect.* At certain times, the Oneida Flag shall be lowered to Half-staff as a sign of respect. In doing so, the Flag shall be first hoisted to the peak for an instant and then lowered to the Half-staff position. The Oneida Flag shall be again raised to the peak before it is lowered for the day.

(a) On the following days, the Oneida Flag shall be lowered to Half-staff

- (i) Oneida Code Talker Day
- (ii) Memorial Day but only until noon, which it shall be raised to top of the staff again.

The commenters suggest adding Veteran's Day and Flag Day to the list provided in Section 6-5(a).

Comments 13 & 14. Miscellaneous Questions.

Comment 13. Veteran's Meeting: #5. Request that any Oneida Flag or other flags produced because of this Policy be made in the United States.

Response

There are no recommended changes for the Policy based on this comment. If the LOC wished to include this, it would be best to do so in the adopting resolution or a separate resolution.

Comment 14. Veteran's Meeting: #6. Will the material for the flags be made from the Calico cloth from the Treaty of Canandaigua (also known as the Calico Treaty or Pickering Treaty)?

Response

The question was asked and answered at the Veteran's meeting. Currently, the Oneida Tribe of Indians of Wisconsin receives an annuity check of \$1,800 in lieu of receiving the calico cloth under the Treaty. There are no recommendations based on this comment.

Comments 15 & 16. Official Flag of the Oneida Nation.

Comment 15. Veteran's Meeting: #1. Question as to what is the official flag of the Tribe since there are different variants (ie some flags say Oneida Nation, others Oneida Tribe) in use.

Response.

The commenters mentioned that there are several versions of the Oneida currently in use and wondered whether there was an official version. Research into past OBC and GTC Resolutions did not reveal a specific Resolution issuing an official version of the flag.

There are no recommended changes to the Policy based on this comment. However, issuing an official flag could be handled through a separate resolution.

Comment 16. Veteran's Meeting: #7. There was a suggestion to create a new official version of the flag. Because of the words on the flag, the flag can only ever be placed in one direction.

This is a Policy decision for the LOC.

Conclusion

There were multiple comments provided on the Policy, at a meeting of various Veteran's groups, at the public meeting and in writing which the LOC should consider and incorporate as appropriate. It is recommended that a work meeting be scheduled with invitations to the Tribe's various veterans groups and other interested parties to review the comments and provide direction to any changes necessary based on the comments.

Oneida Flag Policy

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People of the standing stone – cloth standing up – laws/policies

Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal
Article III. Definitions
Article IV. General
Article V. Procedures

Article VI. Display of the Oneida Flag within the
Reservation
Article VII. Respect for Flag
Article VIII. Display of the Oneida Flag off Reservation

Analysis by the Legislative Reference Office					
Title	Oneida Flag Policy (Policy)				
Requester	OBC/ONVAC	Drafter	Douglass McIntyre	Analyst	Candice E. Skenandore
Reason for Request	The OBC deferred the Policy to the LOC because ONVAC was receiving complaints from non-Tribal members on how the Tribal Flag is displayed. ONVAC has concerns that there is no protocol for those who oversee flag responsibilities.				
Purpose	This Policy governs the proper rules, display and customs of the Nation's flag as well as other the flags of other Sovereigns including the U.S. Flag [See 1-1].				
Authorized/Affected Entities	All Oneida entities and Oneida-owned buildings within the Reservation that currently possess or will possess flag poles, stationary flagstaffs or other means to display a flag must adhere to this Policy [See 4-2].				
Due Process	An employee can grieve any disciplinary action pursuant to Oneida's personnel policies and procedures [See Personnel Policies and Procedures, Section V.D.3].				
Related Legislation	Where the Policy is ambiguous or does not address a situation, the Federal Flag Code can be used as a guide [See 4-1].				
Enforcement	Violating this Policy may result in discipline pursuant the Oneida Nation's personnel policies and procedures [See 5-2].				

Overview

After receiving a number of complaints on how the Oneida Nation Flag (Flag) and US flag are flown, the Oneida Nation Veteran's Affairs Committee (ONVAC) requested that legislation be developed to provide for a consistent way in which the Oneida Nation displays the Flag.¹ On April 22, 2015, the Oneida Business Committee

¹ **Ted Clymer:** I just need to give you a little bit of background and so on, I'm not from Wisconsin. I've been here since 2000. I picked up a job with a Congressionally Chartered Veteran's Organization called the Military Order of the Purple Heart where my job is the Sargent-at-Arms, responsible for flying the flags, what they call the colors and so I started looking around. We meet over at the Oneida VFW, inside the boundaries of the Reservation. In looking at how flags were displayed, once I took this job I started noticing that there were flags being flown in different manners as I would drive in through 172 to get to the VFW hall. So that's what started the whole thing and my interest in this was that I want to make sure I do my job as a guest as I enter into the Reservation that I would honor the sovereignty of that nation who I've just come into to make sure that I'm going to flying the flags that I fly with my everyday duties along the flags of the sovereign nation whose borders I've just crossed so that I will be doing so in a manner that is honorable and in accordance with international flag protocol. That is what started me on this thing. When I first came in here it looked and I notice that there were flags being flown at different heights. And this raised a question at first about a year or so ago because I saw the United States flag, the flag of the United States, the Nation, being flown at one height and then lower than that I saw the flag of the Oneida Nation being flown on a staff that is lower as I was driving through 172 over at the bingo hall and then at the health care center and the daycare center and so on. I saw the same thing at the VFW and then later on as I

(OBC) made a motion to “request the Legislative Operating Committee to develop a flag code policy . . .” The Federal Flag Code was used as guide in developing this Policy. In addition, collaboration with ONVAC representatives also played a role in creating this Policy. This Policy:

- Requires all current and future Oneida Nation entities and Oneida Nation-owned buildings on the Reservation that fly the Flag to do so pursuant to this Policy [See 4-2].
- Identifies who is responsible for Flag duties and if an employee violates this Policy, he/she can be disciplined [See 5-1 & 5-2].
- Lists the requirements for how the Flag is to be displayed [See Article VI].
- Explains how the Flag is to be respected [See Article VII].
- Identifies how the Flag is to be displayed outside of the Reservation [See VIII].

Considerations

The Legislative Operating Committee may want to consider the following:

- The Policy states that the supervisor of each Oneida-owned building must appoint a designee that will be responsible for the duties set within this Policy [See 5-1]. Buildings such as the Skenandoah building, houses a number of Division Directors, Area Managers and supervisors. The LOC may want to consider specifying that the building manager or their equivalent shall appoint a designee to perform the duties set within this Policy.
- The Policy requires that every classroom display the Flag [See 6-1 (d)]. The

went to the Oneida Veteran’s Memorial I saw the same thing again, the United States flag was higher and the flag of the sovereign Oneida Nation of Wisconsin was lower, not of the same height. So my first question to the Veterans who I was dealing with was is the sovereign, is the Oneida Nation a real nation? You know, and I thought was a valid question simply because of the manner in which the flags were displayed. And I was assured that the Oneida Nation is in fact a sovereign nation so therefore I said well ok the way that the flags are being flown, nations recognize other nations by the manner in which their flags are flown at the same height. Non-nation entities can be, flags of non-nation entities can be flown equal to the flags of nation entities or lower but nations always fly their flags at the same height as other nations fly their flags. In the United States Flag Code, Title IV, United States Code, Part VII, paragraph (g), it very simply says for my purposes as a purple heart flying the United States flag, it says flags of two or more nations shall be flown on staffs, on separate staffs, of the same height. And it’s considered to be dishonorable to fly flags of nations at any height other than being of the same. And by height, I’m talking about the top of the flag pole themselves because flags are always driven all the way up to the top of a pole unless they’re ordered down at half-mast for you know, presenting honors for whatever, someone who has died or something like that. So they’re always flown at the top and the flag poles themselves, the tops of the poles or the flag staffs are always supposed to be of equal of the same height. The difference between a flag pole and a flag staff is roughly that a pole is buried into the ground and fixed and a flag staff would be something like what you have right here next to you on stage where you have something that can be picked up, moved, used in a parade and then put on a pedestal and that kind of stuff. So I started asking questions of the Nation and was assured from various locations from both the Veterans I talked to and the people in your administration office that you are a sovereign nation so based upon that, I found out that you did not have a Flag Code and so the way that it works for me in my job as the Sargent-at-Arms is that when I take the United States flag into another nation and fly the United States flag along with my duties for the Military Order of the Purple Heart, I honor the nation, the host nation by flying the flag of that host nation in first place of honor, in first place of prominence followed by the United States flag because I’m in someone else’s house. And it’s the honorable thing to do. So that’s the background for why I’m even here and concerned and so on. I started looking at, and I did send some emails about some of the things you put into the Flag Code or the proposed Flag Code and do I address those by reading them or was it sufficient to send them into you?

Oneida Nation High School will need to approximately 20 flags in order to comply with this Policy. It is unknown how many, if any, Flags are needed for the Elementary School or Head Start.

- When a nation's flag is displayed, Federal Flag Code requires that flag to be flown at the same height as the US flag. This Policy is only requiring the US flag be flown at the same height as the Flag and does not allow flags of other nations to be flown at the same height as the Flag [See 6-3 (a) and CRS Report for Congress: The United States Flag § 7 (g)].²
- If a Flag pin is worn, it must be worn on left lapel near the heart [See 7-1 (k)]. This requirement is also found within the Federal Flag Code; however, the US flag has a union which is to be placed over the heart. The Flag does not have a union; therefore, the LOC may want to decide if this provision is necessary.
- Because the Oneida Nation has a number of buildings which have uneven flag poles, the LOC may want to consider adding language to the Policy that states that until it is financially feasible to change the existing flag poles to allow the Flag and US flag to fly at the same height, the US flag shall fly from the highest flag pole, when appropriate, and the Flag shall fly furthest right to show prominence. In addition, any future flag poles shall be constructed in such a way that complies with this Policy.
- Defining the term "employee" [See 5-3].
- Defining "Oneida-owned building" to either include or exclude buildings owned by Oneida Nation Corporations [See 4-2, 5-1].

Miscellaneous

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

Article I. Purpose and Policy

1-1. The purpose of this Policy is for the Oneida Nation to exercise its fundamental right to exercise self-determination and set forth the proper rules, display and customs of the flag of the Oneida Nation, the flag of the United State of America and of other Sovereigns displayed by the Nation's entities and employees.³

1-2. It is the policy of the Nation to proudly display the rich cultural heritage of the Oneida Nation as a sovereign nation and to provide the respect and dignity owed to the flags of the Oneida Nation, the United States of America and the flags of other Sovereigns.

Article II. Adoption, Amendment, Repeal

2-1. This Policy is adopted by the Oneida Business Committee by resolution _____.

² **Ted Clymer:** written-Subject: LINES 31, 32, and 33 contain a FALSE STATEMENT. LINES 31, 32, and 33 contain a FALSE STATEMENT. "This Policy is only requiring the US flag be flown at the same height as the Flag and DOES NOT ALLOW FLAGS OF OTHER NATIONS TO BE FLOWN AT THE SAME HEIGHT as the Flag." Reference: Title 4 U.S.C. §7. Position and manner of display (g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

³ **Veteran's Meeting: #4.** Where does the Haudenosaunee flag fall into this Policy?

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

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

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

2-5 This Policy is adopted under the Constitution of the Oneida Nation.

Article III. Definitions

3-1. This article shall govern the definitions of words or phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Half-staff" means the position of the flag when it is one-half (1/2) the distance between the top and bottom of the staff.

(b) "Nation" means the Oneida Nation.

(c) "Oneida Flag" means the flag of the Oneida Nation.

(d) "Reservation" means all the land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(e) "Sovereigns" means any other Indian Nation, State or localities⁴

Article IV. General

4-1. Where the Policy is ambiguous or does not address a situation, the Federal Flag Code may be used as a guide.

4-2. All Oneida Nation entities and Oneida owned buildings within the Reservation that currently possess flagpoles, stationary flagstaves or other means to display a flag and those entities and -Oneida owned buildings that later establish the means to display a flag shall adhere to this Policy.

Article V. Procedures

5-1. The supervisor of each Oneida owned building described in section 4-3 shall appoint a designee responsible for the duties under this Policy.

5-2. Employees found violating this Policy may be subject to discipline in accordance with the Nation's personnel procedures and policies.

⁴ **Ted Clymer:** *written*-Subject: PROBLEM in LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES. See LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES. The word LOCALITIES should be removed from LINE 85. The Sovereign STATE of Wisconsin is NOT a Sovereign NATION. The Sovereign STATE of Wisconsin is a SUB-Element of a Sovereign NATION, the United States of America. The Village of Hobart is a LOCALITY that is NOT a Sovereign NATION. The Village of Hobart is a LOCALITY that is SUB-SUB-Element of the Sovereign STATE of Wisconsin. Since the Village of Hobart is a LOCALITY, LINE 85 may be read to mean the Oneida Nation recognizes the Village of Hobart to be a Sovereign entity. To avoid misconception, the word LOCALITIES should be removed from LINE 85.

Article VI. Display of the Oneida Flag within the Reservation

6-1. *Location, time and occasions for display.* As the Oneida Flag represents the Nation's sovereignty, it should be displayed according to the following requirements:

(a) The Oneida Flag must be displayed on all days.

(b) The Oneida Flag must only be displayed from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four (24) hours a day if the Oneida Flag is an all-weather flag and the Oneida Flag is properly illuminated⁵ during the hours of darkness.

(d) The Oneida Flag shall be displayed during school days near every schoolhouse and inside each classroom.

(e) The Oneida Flag shall be displayed in and near every polling place within the Reservation on election days.⁶

6-2. *Conduct during hoisting, lowering or passing of the Flag.* The Oneida Flag shall be hoisted briskly and lowered ceremoniously.

6-3. *Position of the Flag*^{7 8}. The position of a flag among others is an important symbol of prominence and sovereignty, therefore the following requirements must be adhered to:

⁵ **Veteran's Meeting: #3.** What is considered "properly illuminated"?

⁶ **Ted Clymer:** *written*-Please consider this suggested LOCATION OF DISPLAY for the Oneida Flag Policy.

Location of Display. The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag shall be displayed within the boundary of the Reservation of the Oneida Nation:

- a. in the Office of the Chairperson of the Oneida Nation;
- b. in Oneida Nation courtrooms while court is in session;
- c. at the Annual meeting, and the Semi-Annual meeting;
- d. at Oneida General Tribal Council (GTC) meeting;
- e. at Oneida Nation School Board meeting;
- f. at polling places when citizens vote;
- g. at the Oneida Veterans Memorial;
- h. at a Pow Wow;
- i. at a public meeting;
- j. outside the Norbert Hill Center;
- k. outside the Oneida Nation Police Department;
- l. outside Oneida Nation Schools;
- m. outside the Oneida Casino and the Oneida Bingo hall;
- n. at Austin Straubel International Airport;
- o. as directed by the Chairperson of the Oneida Nation or the Oneida General Tribal Council

⁷ **Ted Clymer:** *written*-Please consider this suggested POSITION OF DISPLAY for the Oneida Flag Policy.

Position and manner of display.

- 1. Eagle Staffs shall be displayed in the first place of superior prominence and honor in front of all Flags.
- 2. The Haudenosaunee Flag shall be displayed to the furthest right (the viewer's left) of the Oneida Nation Flag.
- 3. The Oneida Nation Flag shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the Haudenosaunee Flag.
- 4. The United States Flag shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the Oneida Nation Flag.
- 5. Flags of other Nations shall be displayed at the same height and to the flags immediate left (the viewer's immediate right) of the United States Flag.

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(a) Only the flag of the United States may ever be displayed at the same height as the Oneida Flag.^{9 10 11}

6. The State of Wisconsin Flag shall be displayed at the same height or at a lower height and to the flags left (the viewer's right) of flags of other Nations or the United States Flag.

7. All other flags shall be displayed at the same height and to the flags left (the viewer's right) of the State of Wisconsin Flag

⁸ **Ted Clymer:** *written*-Where the Eagle Staff was the only symbol of Sovereignty before Indian Nations used flags, the Oneida Nation Flag is used as a symbol of Sovereignty today; but the Eagle Staff always leads the way. The Haudenosaunee Flag recognizes a confederation of Indian Nations much like the United States Flag recognizes a confederation of the original 13 colonies into the Nation that is the United States of America. The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag should be displayed as a minimum group of flags because, together, they tell the history of Sovereignty of the Oneida Nation. When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

State flags and all other flags may be displayed at the same height as flags of Nations or at a lower height.

⁹ **Ted Clymer:** Not that I could see right now. The one comment I had made simply about the where it says problem, I had a problem in line 120 where it says on the flag of the United States may ever be displayed at the same height as the Oneida flag. I see a problem there for example during the pow wows when you have visiting nations and when they come on in and if this line stays the way it is now, line 120 and 121 I think it ends at 121, that would mean that only those two flags can be flown at the same height but if you have visiting nations, other nations. I don't know that many of them but the Ho Chunk would come here or the Menominee or the Oneida folks from Canada. I've attended the pow wows and you have people coming in from Canada and other places, there might be I don't know the Cherokee Nation or the Blackfeet or something, I don't know how who participates inside the Oneida Reservation and those kinds of things but that line would, if you hold it to the way it's published right now, that would preclude those other nations from flying their flags at the same height and they are nations. And once again, flags of two or more nations should be flown on separate staffs of the same height. That's not only the United States flag code, it's the international flag protocols there so I think that was kind of important and that's why I put that in there. Let see, yeah that's the only one I think I needed to expand upon of the three I sent in to you. So is there...

David P. Jordan: Is that supposed to be ever or never? That word right there in that sentence. On line 120.

Douglass McIntyre: It's may ever.

David P. Jordan: May ever, ok.

Ted Clymer: So they're only talking about with only, they're only talking about those two I think.

David P. Jordan: ok

Ted Clymer: And if that's the case, because you hold international, the pow wow and so on is international, that would create a problem. Because you put penalty phase into this thing then you might be, someone might say why didn't you punish these people for allowing the visiting nations from coming on in because they did fly the flags at the same height. Example here on your podium or the stage here. If they were coming on in and you had like twenty flags, and the United States flag and the flag of the Oneida Nation would be placed in a stand and you have stands for the remaining eighteen nations, you would have to do, in order with this thing you would have to, the flag of the Oneida Nation and the flag of the United States raised on some sort of a pedestal for them to be higher than the flag of the remaining eighteen nations or you'd have to take a hacksaw and cut off the bottom of the pole that they used to carry then on in which really wouldn't be desirable. But the problem with even doing that kind of thing for a pedestal for those two and the rest of them on the ground floor, your still dishonoring the nation status of those of those nations that brought their flags because you're now putting them at different heights.

¹⁰ **Loretta Metoxen:** Mr. Chairman I didn't come to make any comments but I came to observe because I'm very interested in this particular topic. As a veteran and as a member of the Oneida Nation's Veteran's Affairs Committee, who has talked to the Captain [Ted Clymer] here on several occasions and he has left me his information on that. And by the way information on the eagle feather as well which we will be coming forward at a different time. So I am in agreement with his comment on all nations flags are

- 122 (b) The Oneida Flag shall be displayed to the furthest right to show superior
123 prominence.
- 124 (c) When the Oneida Flag and the United States flag are both displayed, they are
125 to be flown from separate staffs of the same height and the flags shall be of
126 approximately equal size.
- 127 (d) When other flags are flown from adjacent staffs, the Oneida Flag shall be
128 hoisted first and lowered last.
- 129 (e) When flags of other Sovereigns or pennants of societies are flown on the
130 same halyard with the Oneida Flag, the Oneida Flag shall always be at the top.
- 131 6-4. *Manner of Display*. The Oneida Flag must be displayed as follows:
- 132 (a) When carried in a procession with another flag or flags, the Oneida Flag shall
133 be either on the marching right; that is, the Flag's own right, or, if there is a line of
134 other flags, in front of the center of that line.
- 135 (b) When the Oneida Flag is displayed with another flag against a wall from
136 crossed staffs, the Oneida Flag shall be on the right, the flag's own right, and its
137 staff shall be in front of the staff of the other flag.
- 138 (c) The Oneida Flag shall only be displayed horizontally against a wall, the
139 Oneida Flag shall be placed in the upright position. When displayed in a window,
140 the flag shall be displayed in the upright position facing the appropriate way to an
141 observer outside the building.
- 142 (d) When the Oneida Flag is displayed over the middle of the street, the Oneida
143 Flag shall be suspended horizontally and must be placed in the upright position.
- 144 (e) When used on a speaker's platform, the flag, if displayed flat, shall be
145 displayed above and behind the speaker. When displayed from a staff in a church
146 or public auditorium, the Oneida Flag must hold the position of superior
147 prominence, in advance of the audience, and in the position of honor at the
148 clergy's or speaker's right as he or she faces the audience. Any other flag so
149 displayed shall be placed on the left of the clergyman or speaker or to the right of
150 the audience.
- 151 (f) When the Oneida Flag is suspended across a corridor or lobby, it shall be
152 suspended in the upright position facing the main entrance.

equivalent. If you look at the Oneida, not the Oneida but the United, United Nations flags in New York. Of all the nations in the world, they are equal. And Oneida Nation should be equal to all nations. Thank you.

¹¹ **Ted Cylmer:** *written*-Subject: PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag. Please see the attached Adobe Acrobat .PDF file:

01. As written, this REQUIRES flags of VISITING NATIONS to be displayed on flag staffs or flag poles that are LOWER THAN the flag staffs or flag poles of flags of the Oneida Nation and the United States of America.

02. As written, this contradicts International Flag Protocols that say International usage forbids the display of the flag of one nation above that of another nation in time of peace.

03. Since International Flag Protocols say when flags of TWO OR MORE NATIONS are displayed they are to be flown from separate flag staffs or flag poles that are displayed AT THE SAME HEIGHT, LINE 120 really says the Oneida Nation does not allow flags of other Nations to be flown anywhere within the boundary of the Reservation of the Sovereign Oneida Nation.

(g) The Oneida Flag shall form a distinctive feature of the ceremony of unveiling a statue or monument, but it shall never be used as the covering for the statue or monument.

6-5. *Display of Respect.* At certain times, the Oneida Flag shall be lowered to Half-staff as a sign of respect. In doing so, the Flag shall be first hoisted to the peak for an instant and then lowered to the Half-staff position. The Oneida Flag shall be again raised to the peak before it is lowered for the day.

(a) On the following days, the Oneida Flag shall be lowered to Half-staff:

(i) Oneida Code Talker Day

(ii) Memorial Day but only until noon, which it shall be raised to top of the staff again.¹²

(b) As a sign of respect, when the United States flag is lowered to Half-staff, the Oneida Flag shall also be lowered.

(c) By a directive of the Chairperson, or his or her designee if the Chairperson is not available, the Oneida Flag shall be flown at Half-staff upon the death of a tribal member and remain at Half-staff until after the funeral.

(d) The Oneida Flag may be lowered to Half-staff by directive of the Chairperson for other reasons he or she deems needed.

Article VII. Respect for Flag

7-1. No disrespect shall be shown to the flag of the Oneida Nation, the United States flag or flags of any other Sovereigns.

(a) During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present shall face the flag and stand at attention.

(b) The Oneida Flag and United States flag shall not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags shall be dipped as a mark of honor.

(c) The Oneida Flag shall never be displayed upside down.

(d) The Oneida Flag shall never touch anything beneath it, such as the ground, the floor, or water.

(e) The Oneida Flag shall never be carried flat or horizontally, but always aloft and free.

(f) The Oneida Flag shall never be draped, drawn back, tied up, folded, but always allowed to fall free.

(g) The Oneida Flag shall never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

(h) The Oneida Flag shall never be used as a covering for a ceiling.

(i) The Oneida Flag shall never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature besides the Oneida Flag's design.

(j) The Oneida Flag shall never be used as a receptacle for receiving, holding, carrying, or delivering anything.

(k) No part of the Oneida Flag shall ever be used as a costume or athletic uniform. However, an Oneida Flag patch may be affixed to the uniform of military personnel,

¹² **Veteran's Meeting: #2.** Request to add Veteran's Day and Flag Day to 6-5(a) for lowering the flag to half-staff.

197 firefighter, police officer, and members of patriotic organizations. The lapel Flag pin
198 being a replica, shall be worn on the left lapel near the heart.

199 (l) The Oneida Flag, when it is in such condition that it is no longer a fitting emblem
200 for display, shall be destroyed in a dignified way, preferably by burning.

201
202 **Article VIII. Display of the Oneida Flag off Reservation**

203 8-1. When outside of the boundaries of the Reservation, the proper display protocol of the
204 jurisdiction shall be followed.

205
206 **End**^{1314 15 16}
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¹³ **Veteran's Meeting: #5.** Request that any Oneida Flag or other flag produced because of this Policy be made in the United States.

¹⁴ **Veteran's Meeting: #6.** Will the material for the flags be made from the Calico cloth from the Treaty of Canandaigua (also known as the Calico Treaty or Pickering Treaty)?

¹⁵ **Veteran's Meeting: #1.** Question as to what is the official flag of the Tribe since there are different variants (ie some flags say Oneida Nation, others Oneida Tribe) in use.

¹⁶ **Veteran's Meeting: #7.** There was a suggestion to create a new official version of the flag. Because of the words on the flag, the flag can only ever be placed in one direction.

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4375
(800) 236-2214

**Committee Members**

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
Jennifer Webster, Councilmember
David P. Jordan, Councilmember

LEGISLATIVE OPERATING COMMITTEE

Public Meeting on Oneida Flag Policy
Business Committee Conference Room-2nd Floor
Norbert Hill Center
October 1, 2015 12:15 p.m.

PRESENT: David P. Jordan, Fawn Billie, Candice Skenandore, Tani Thurner, Douglass McIntyre, Rae Skenandore, Loretta Metoxen, Ted Clymer, Tim Skenandore, Chris Cornelius, Tim Ninham

David P. Jordan: I'll call this meeting to order, I am Councilman David Jordan and with me is Fawn Billie. Notice of the public meeting to be held on October 1, 2015 at 12:15 p.m. at the Oneida Business Committee Conference Room, 2nd Floor, Norbert Hill. Topic "Oneida Flag Policy". The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding a legislative proposal that would create a flag policy to set forth the proper rules concerning the display and custom of the flag of the Oneida Nation, the flag of the United State of America of other Sovereigns displays by the Nation's entities and employees. The Policy requires all current and future Oneida Nation entities and Oneida Nation owned buildings on the Reservation that fly the Flag to do so pursuant to this Policy; identifies who is responsible for Flag duties and if an employee violates this Policy, he/she can be disciplined; lists the requirements for how the Flag is to be displayed; explains how the Flag is to be respected; identifies how the Flag is to be displayed outside of the Reservation. So if anybody has any comments, you can come forward and identify yourself and we'll start taking comments. I have Rae Skenandore down from Finance? You have no comments? And then we have Ted. Would that be you? Sure you want to come up to the table, it will be easier for you, it will be ok too.

Ted Clymer: Good afternoon, I'm Captain Ted Clymer of the United States Army retired. I live in De Pere. Do I need address and things like that?

David P. Jordan: Yes for contact information

Ted Clymer: Ok, its WI 54115. I just need to give you a little bit of background and so on, I'm not from Wisconsin. I've been here since 2000. I picked up a job with a Congressionally Chartered Veteran's Organization called the Military Order of the Purple Heart where my job is the Sargent-at-Arms, responsible for flying the flags, what they call the colors and so I started looking around. We meet over at the Oneida VFW, inside the boundaries of the Reservation. In looking at how flags were displayed, once I took this job I

started noticing that there were flags being flown in different manners as I would drive in through 172 to get to the VFW hall. So that's what started the whole thing and my interest in this was that I want to make sure I do my job as a guest as I enter into the Reservation that I would honor the sovereignty of that nation who I've just come into to make sure that I'm going to flying the flags that I fly with my everyday duties along the flags of the sovereign nation whose borders I've just crossed so that I will be doing so in a manner that is honorable and in accordance with international flag protocol. That is what started me on this thing. When I first came in here it looked and I notice that there were flags being flown at different heights. And this raised a question at first about a year or so ago because I saw the United States flag, the flag of the United States, the Nation, being flown at one height and then lower than that I saw the flag of the Oneida Nation being flown on a staff that is lower as I was driving through 172 over at the bingo hall and then at the health care center and the daycare center and so on. I saw the same thing at the VFW and then later on as I went to the Oneida Veteran's Memorial I saw the same thing again, the United States flag was higher and the flag of the sovereign Oneida Nation of Wisconsin was lower, not of the same height. So my first question to the Veterans who I was dealing with was is the sovereign, is the Oneida Nation a real nation? You know, and I thought was a valid question simply because of the manner in which the flags were displayed. And I was assured that the Oneida Nation is in fact a sovereign nation so therefore I said well ok the way that the flags are being flown, nations recognize other nations by the manner in which their flags are flown at the same height. Non-nation entities can be, flags of non-nation entities can be flown equal to the flags of nation entities or lower but nations always fly their flags at the same height as other nations fly their flags. In the United States Flag Code, Title IV, United States Code, Part VII, paragraph (g), it very simply says for my purposes as a purple heart flying the United States flag, it says flags of two or more nations shall be flown on staffs, on separate staffs, of the same height. And it's considered to be dishonorable to fly flags of nations at any height other than being of the same. And by height, I'm talking about the top of the flag pole themselves because flags are always driven all the way up to the top of a pole unless they're ordered down at half-mast for you know, presenting honors for whatever, someone who has died or something like that. So they're always flown at the top and the flag poles themselves, the tops of the poles or the flag staffs are always supposed to be of equal of the same height. The difference between a flag pole and a flag staff is roughly that a pole is buried into the ground and fixed and a flag staff would be something like what you have right here next to you on stage where you have something that can be picked up, moved, used in a parade and then put on a pedestal and that kind of stuff. So I started asking questions of the Nation and was assured from various locations from both the Veterans I talked to and the people in your administration office that you are a sovereign nation so based upon that, I found out that you did not have a Flag Code and so the way that it works for me in my job as the Sargent-at-Arms is that when I take the United States flag into another nation and fly the United States flag along with my duties for the Military Order of the Purple Heart, I honor the nation, the host nation by flying the flag of that host nation in first place of honor, in first place of prominence followed by the United States flag because I'm in someone else's house. And it's the honorable thing to do. So that's the background for why I'm even here and concerned and so on. I started looking at, and I did send some emails about some of the things you put into the Flag Code or the proposed Flag Code and do I address those by reading them or was it sufficient to send them into you?

David P. Jordan: Either or, if you already sent them then you must have a record of them.

Douglass McIntyre: We have a copy of those and those will be included within the public comments. Do you have any additional ones?

Ted Clymer: Not that I could see right now. The one comment I had made simply about the where it says problem, I had a problem in line 120 where it says on the flag of the United States may ever be displayed at the same height as the Oneida flag. I see a problem there for example during the pow wows when you have visiting nations and when they come on in and if this line stays the way it is now, line 120 and 121 I think it ends at 121, that would mean that only those two flags can be flown at the same height but if you have visiting nations, other nations. I don't know that many of them but the Ho Chunk would come here or the Menominee or the Oneida folks from Canada. I've attended the pow wows and you have people coming in from Canada and other places, there might be I don't know the Cherokee Nation or the Blackfeet or something, I don't know how who participates inside the Oneida Reservation and those kinds of things but that line would, if you hold it to the way it's published right now, that would preclude those other nations from flying their flags at the same height and they are nations. And once again, flags of two or more nations should be flown on separate staffs of the same height. That's not only the United States flag code, it's the international flag protocols there so I think that was kind of important and that's why I put that in there. Let see, yeah that's the only one I think I needed to expand upon of the three I sent in to you. So is there...

David P. Jordan: Is that supposed to be ever or never? That word right there in that sentence. On line 120.

Douglass McIntyre: It's may ever.

David P. Jordan: May ever, ok.

Ted Clymer: So they're only talking about with only, they're only talking about those two I think.

David P. Jordan: ok

Ted Clymer: And if that's the case, because you hold international, the pow wow and so on is international, that would create a problem. Because you put penalty phase into this thing then you might be, someone might say why didn't you punish these people for allowing the visiting nations from coming on in because they did fly the flags at the same height. Example here on your podium or the stage here. If they were coming on in and you had like twenty flags, and the United States flag and the flag of the Oneida Nation would be placed in a stand and you have stands for the remaining eighteen nations, you would have to do, in order with this thing you would have to, the flag of the Oneida Nation and the flag of the United States raised on some sort of a pedestal for them to be higher than the flag of the remaining eighteen nations or you'd have to take a hacksaw and cut off the bottom of the pole that they used to carry then on in which really wouldn't be desirable. But the problem with even doing that kind of thing for a pedestal for those two and the rest of them on the ground floor, you still dishonoring the nation status of those of those nations that brought their flags because you're now putting them at different heights.

David P. Jordan: Ok

Ted Clymer: Thank you

David P. Jordan: Thank You

Ted Clymer: Do you have any questions for me?

David P. Jordan: Nope, none, not at this time, do you? No, ok thank you

Fawn Billie: Thank you

Ted Clymer: Thank you Sir.

David P. Jordan: You can give those to Doug. Tim are you going to speak today? No, Loretta?

Loretta Metoxen: I didn't come to make any comments

David P. Jordan: Ok then, we just wanted to see whoever wants to make comments. That's why we're...

Loretta Metoxen: Mr. Chairman I didn't come to make any comments but I came to observe because I'm very interested in this particular topic. As a veteran and as a member of the Oneida Nation's Veteran's Affairs Committee, who has talked to the Captain here on several occasions and he has left me his information on that. And by the way information on the eagle feather as well which we will be coming forward at a different time. So I am in agreement with his comment on all nations flags are equivalent. If you look at the Oneida, not the Oneida but the United, United Nations flags in New York. Of all the nations in the world, they are equal. And Oneida Nation should be equal to all nations. Thank you.

David P. Jordan: Thank you. Chris do you have any comments?

Chris : I concur

David P. Jordan: Tim do you have any comments? Ok so we have no other comments. I will let you know that the public comment period is open until October 8. If you look at the Policy and you come up with any comments you can actually submit them to the LRO here on the second floor or the Secretary's Office and put attention Doug McIntyre. Alright that concludes our public meeting. Thank you guys for coming.

Fawn Billie: Thank you

-End of meeting-

Meeting with the Veterans
9/17/15

1. Question as to what is the official flag of the Tribe since there are different variants (ie some flags say Oneida Nation, others Oneida Tribe) in use.
2. Request to add Veteran's Day and Flag Day to 6-5(a) for lowering the flag to half-staff.
3. What is considered properly illuminated?
4. Where does the Haudenosaunee flag fall into this Policy?
5. Request that any Oneida Flag or other flag produced because of this Policy be made in the United States.
6. Will the material for the flags be made from the Calico cloth from the Treaty of Canandaigua (also known as the Calico Treaty or Pickering Treaty)?
7. There was a suggestion to create a new official version of the flag. Because of the words on the flag, the flag can only ever be placed in one direction.

Douglass A. McIntyre

From:
Sent: Monday, September 28, 2015 6:05 AM
To: LOC
Subject: LINES 31, 32, and 33 contain a FALSE STATEMENT.

eMail September 28, 2015 – 06:05 CDST

**To: Sovereign Oneida Nation of Wisconsin
Legislative Reference Office
PO Box 365
Oneida, WI 54155
Phone (920) 869-4376
FAX (920) 869-4040
eMail LOC@ONEIDANATION.ORG**

Subject: LINES 31, 32, and 33 contain a FALSE STATEMENT.

LINES 31, 32, and 33 contain a FALSE STATEMENT. "This Policy is only requiring the US flag be flown at the same height as the Flag and DOES NOT ALLOW FLAGS OF OTHER NATIONS TO BE FLOWN AT THE SAME HEIGHT as the Flag."

**Reference: Title 4 U.S.C. §7. Position and manner of display
(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.**

From: Captain Ted Clymer, United States Army, Retired

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Douglass A. McIntyre

From:
Sent: Monday, September 28, 2015 5:14 AM
To: LOC
Subject: PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag.
Attachments: eMail_20150928 - To Sovereign Oneida Nation of Wisconsin, Legislative Reference Office - FLAG CODE - LINE 120.pdf

eMail September 28, 2015 – 05:13 CDST

**To: Sovereign Oneida Nation of Wisconsin
Legislative Reference Office
PO Box 365
Oneida, WI 54155
Phone (920) 869-4376
FAX (920) 869-4040
eMail LOC@ONEIDANATION.ORG**

Subject: PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag.

Please see the attached Adobe Acrobat .PDF file:

eMail_20150928 - To Sovereign Oneida Nation of Wisconsin, Legislative Reference Office - FLAG CODE - LINE 120.pdf

From: Captain Ted Clymer, United States Army, Retired

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928 - To Sovereign Oneida Nation of Wisconsin, Legislative Reference Office - FLAG CODE -

eMail September 28, 2015

**To: Sovereign Oneida Nation of Wisconsin
Legislative Reference Office
PO Box 365
Oneida, WI 54155
Phone (920) 869-4376
FAX (920) 869-4040
eMail LOC@ONEIDANATION.ORG**

**Subject: PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY
EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag.**

**Please see the attached Adobe Acrobat .PDF file:
PROBLEM in LINE 120 (a) ONLY - - - MAY EVER BE DISPLAYED AT THE
SAME HEIGHT_(PRN-HQ4).PDF**

**01. As written, this REQUIRES flags of VISITING NATIONS to be displayed
on flag staffs or flag poles that are LOWER THAN the flag staffs or flag
poles of flags of the Oneida Nation and the United States of America.**

**02. As written, this contradicts International Flag Protocols that say
International usage forbids the display of the flag of one nation above that
of another nation in time of peace.**

**03. Since International Flag Protocols say when flags of TWO OR MORE
NATIONS are displayed they are to be flown from separate flag staffs or flag
poles that are displayed AT THE SAME HEIGHT, LINE 120 really says the
Oneida Nation does not allow flags of other Nations to be flown anywhere
within the boundary of the Reservation of the Sovereign Oneida Nation.**

From: Captain Ted Clymer, United States Army, Retired

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PROBLEM in LINE 120: (a) ONLY the flag of the United States MAY EVER BE DISPLAYED AT THE SAME HEIGHT as the Oneida Flag.

Draft #2
08/11/2015

Page 63 of 177

114 (e) The Oneida Flag shall be displayed in and near every polling place within the
115 Reservation on election days.

116 6-2. *Conduct during hoisting, lowering or passing of the Flag.* The Oneida Flag shall be
117 hoisted briskly and lowered ceremoniously.

118 6-3. *Position of the Flag.* The position of a flag among others is an important symbol of
119 prominence and sovereignty, therefore the following requirements must be adhered to:

120 (a) Only the flag of the United States may ever be displayed at the same height as
121 the Oneida Flag.

122 (b) The Oneida Flag shall be displayed to the furthest right to show superior
123 prominence.

124 (c) When the Oneida Flag and the United States flag are both displayed, they are
125 to be flown from separate staffs of the same height and the flags shall be of
126 approximately equal size.

PROBLEM. Flag of Southern Ute Nation Not Same Height as Oneida Nation and USA.

FLAG DISPLAY.

At any place within the boundary of the Reservation of the Sovereign Oneida Nation of Wisconsin.



Douglass A. McIntyre

From:
Sent: Monday, September 28, 2015 5:50 AM
To: LOC
Subject: PROBLEM in LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES.

eMail September 28, 2015 – 05:50 CDST

**To: Sovereign Oneida Nation of Wisconsin
Legislative Reference Office
PO Box 365
Oneida, WI 54155
Phone (920) 869-4376
FAX (920) 869-4040
eMail LOC@ONEIDANATION.ORG**

Subject: PROBLEM in LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES.

See LINE 85: "Sovereigns" means any other Indian Nation, State or LOCALITIES.

The word LOCALITIES should be removed from LINE 85.

The Sovereign STATE of Wisconsin is NOT a Sovereign NATION.

The Sovereign STATE of Wisconsin is a SUB-Element of a Sovereign NATION, the United States of America.

The Village of Hobart is a LOCALITY that is NOT a Sovereign NATION.

The Village of Hobart is a LOCALITY that is SUB-SUB-Element of the Sovereign STATE of Wisconsin.

Since the Village of Hobart is a LOCALITY, LINE 85 may be read to mean the Oneida Nation recognizes the Village of Hobart to be a Sovereign entity.

To avoid misconception, the word LOCALITIES should be removed from LINE 85.

From: Captain Ted Clymer, United States Army, Retired

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Douglass A. McIntyre

From: LOC
Sent: Thursday, October 08, 2015 9:42 AM
To:
Cc: Douglass A. McIntyre
Subject: RE: Suggested POSITION AND LOCATION OF DISPLAY for Eagle Staffs, the Haudenosaunee Flag, the Oneida Nation Flag, the United States Flag, Flags of other Nations, the State of Wisconsin Flag, and all other flags.

Thank you for your comment. It will be added to the other public comments received for review by the sponsor and the LOC.

Sincerely,
Legislative Reference Office

From: _____
Sent: Thursday, October 08, 2015 3:19 AM
To: LOC
Subject: Suggested POSITION AND LOCATION OF DISPLAY for Eagle Staffs, the Haudenosaunee Flag, the Oneida Nation Flag, the United States Flag, Flags of other Nations, the State of Wisconsin Flag, and all other flags.

eMail October 08, 2015 – 03:18 CDST

**To: Sovereign Oneida Nation of Wisconsin
Legislative Reference Office
PO Box 365
Oneida, WI 54155
Phone (920) 869-4376
FAX (920) 869-4040
eMail LOC@ONEIDANATION.ORG**

Subject: Suggested POSITION AND LOCATION OF DISPLAY for Eagle Staffs, the Haudenosaunee Flag, the Oneida Nation Flag, the United States Flag, Flags of other Nations, the State of Wisconsin Flag, and all other flags.

Public Comment: Oneida Flag Policy

Please consider this suggested POSITION OF DISPLAY for the Oneida Flag Policy.

Position and manner of display.

- 1. Eagle Staffs shall be displayed in the first place of superior prominence and honor in front of all Flags.**
- 2. The Haudenosaunee Flag shall be displayed to the furthest right (the viewers left) of the Oneida Nation Flag.**

3. The Oneida Nation Flag shall be displayed at the same height and to the flags immediate left (the viewers immediate right) of the Haudenosaunee Flag.

4. The United States Flag shall be displayed at the same height and to the flags immediate left (the viewers immediate right) of the Oneida Nation Flag.

5. Flags of other Nations shall be displayed at the same height and to the flags immediate left (the viewers immediate right) of the United States Flag.

6. The State of Wisconsin Flag shall be displayed at the same height or at a lower height and to the flags left (the viewers right) of flags of other Nations or the United States Flag.

7. All other flags shall be displayed at the same height and to the flags left (the viewers right) of the State of Wisconsin Flag.

Please consider this suggested LOCATION OF DISPLAY for the Oneida Flag Policy.

Location of Display. The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag shall be displayed within the boundary of the Reservation of the Oneida Nation:

- a. in the Office of the Chairperson of the Oneida Nation;**
- b. in Oneida Nation courtrooms while court is in session;**
- c. at the Annual meeting, and the Semi-Annual meeting;**
- d. at Oneida General Tribal Council (GTC) meeting;**
- e. at Oneida Nation School Board meeting;**
- f. at polling places when citizens vote;**
- g. at the Oneida Veterans Memorial;**
- h. at a Pow Wow;**
- i. at a public meeting;**
- j. outside the Norbert Hill Center;**
- k. outside the Oneida Nation Police Department;**
- l. outside Oneida Nation Schools;**
- m. outside the Oneida Casino and the Oneida Bingo hall;**
- n. at Austin Straubel International Airport;**

o. as directed by the Chairperson of the Oneida Nation or the Oneida General Tribal Council (GTC)

My thoughts:

Where the Eagle Staff was the only symbol of Sovereignty before Indian Nations used flags, the Oneida Nation Flag is used as a symbol of Sovereignty today; but the Eagle Staff always leads the way.

The Haudenosaunee Flag recognizes a confederation of Indian Nations much like the United States Flag recognizes a confederation of the original 13 colonies into the Nation that is the United States of America.

The Haudenosaunee Flag, Oneida Nation Flag, United States Flag, and the State of Wisconsin Flag should be displayed as a minimum group of flags because, together, they tell the history of Sovereignty of the Oneida Nation.

When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

State flags and all other flags may be displayed at the same height as flags of Nations or at a lower height.

Thank You.

From: Captain Ted Clymer, United States Army, Retired

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Legislative Operating Committee

November 4, 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.

9/16/15 LOC: Motion by David P. Jordan to accept the memorandum regarding the status of the Administrative Rulemaking Law as FYI; seconded by Jennifer Webster. Motion carried unanimously.

10/21/15 LOC: Motion by Fawn Billie to accept the legislative analysis and defer the Administrative Rulemaking Law to the sponsor to go through the noted considerations, make any changes if necessary and prepare for December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.

Next Steps:

- Review the public meeting packet and, if appropriate, send the Administrative Rulemaking Law for a public meeting to be held on December 3, 2015.

Chapter 17
Administrative Rulemaking
Thotihá·tú lutyánłashlu·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

17.1. Purpose and Policy

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

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

- (a) There is an efficient, effective and democratic process for enacting and revising administrative Rules.
- (b) That Authorized Agencies act in a responsible and consistent manner when enacting and revising the administrative Rules.

17.2. Adoption, Amendment, Repeal

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

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

17.2-3. 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.

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

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

17.3. Definitions

17.3-1. 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 use.

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

(b) “Business Day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Tribe.

(c) “Financial Analysis” means an estimate of the total fiscal year financial effects associated with a proposed Rule prepared by the Authorized Agency proposing the Rule. It includes startup costs, personnel, office, documentation costs, 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

Draft 12 – Redline to Draft 11
11/04/2015

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 Tribe's website by the Legislative Operating Committee which contains, at a minimum, agency Rules, proposed legislation and notices, and either the Oneida Code of Laws or directions to obtain free access to the Oneida Code of Laws.

(f) "Rule" means ~~any exercise a set of Rulemaking Authority requirements enacted~~ by an Authorized Agency in ~~the form of a rule, regulation, policy or any other tool designed to exercise the Authorized Agency's delegated Rulemaking Authority in~~ order to implement, interpret and/or enforce a law or policy of the 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.~~

(g) "Rulemaking Authority" means the delegation of authority to Authorized Agencies found in the Tribe's laws other than this Law which allows Authorized Agencies to implement, interpret and/or enforce a law or policy of the Tribe.

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

(i) "Tribe" means the Oneida Tribe of Indians of Wisconsin.

17.4. General

17.4-1. *Administrative Rulemaking.* Only Authorized Agencies may promulgate Rules; this Law does not confer Rulemaking Authority. Authorized Agencies shall adhere to the 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 Rulemaking Authority granted under the law for which the Rule is being promulgated.

(a) This Law does not apply to standard operating procedures, which for the purposes of this section are statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency.

(b) Rules developed pursuant to this Law have the same force and effect as the law which delegated the Authorized Agency Rulemaking Authority and must be followed by both the general public and the Authorized Agency promulgating the Rule.

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 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.

Draft 12 – Redline to Draft 11

11/04/2015

~~(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) Business Days of its adoption and the Oneida Legislative Reference Office shall publish all such Rules in the Oneida Register within thirty (30) Business Days of its receipt thereof.~~

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.

(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 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 17.6 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) the Financial Analysis, for which the Authorized Agency shall send a written request to each Entity that may be affected by the proposed 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 a public comment period, which must include a public meeting. Nothing in this Section prohibits or restricts the holding of any other type of community meeting which may be used to gather input on Rules.

17.6-2. *Public Meetings.* When a public meeting on a proposed Rule is scheduled by an Authorized Agency, it must be held in accordance with the following requirements.

Draft 12 – Redline to Draft 11
11/04/2015

(a) The Authorized Agency shall set a date for the public meeting and have the notice published in the *Kalihwisaks* and in the *Oneida Register* not less than ten (10) business days prior to the meeting.

(b) The notice must include:

(1) information for electronically accessing the summary report required under Section 17.5-2;

(2) the date, time, and place of the scheduled public meeting; and

(3) the name, address, phone number, and other appropriate information to submit written comments on the Rule and the time period during which the Authorized Agency shall accept comments.

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

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

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

(f) The Authorized Agency shall audio record the public meeting and persons who provide oral comments shall state their name for the record.

(g) The Authorized Agency shall hold the record open for the submission of written comments for a minimum of five (5) business days following the public meeting, provided that, the Authorized Agency may extend the comment period as it deems appropriate by 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

17.7-1. After a public meeting is held and the public comment period has expired, the Authorized Agency shall submit the proposed Rule and the items it must contribute for the administrative record pursuant to Section 17.10 to the Legislative Operating Committee, 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 take one (1) of the following actions:

(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

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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 specific feedback as to which procedural requirements were not fulfilled by the Authorized Agency.

17.7-3. 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 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 shall work with the Oneida Business Committee to address any concerns.

(a) Unless the Oneida Business Committee repeals the Rule, the Rule will remain in effect while the Authorized Agency and the Oneida Business Committee 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 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 do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt a revised Rule that incorporates the amendments it deems necessary.

(d) If substantial revisions are requested by the Oneida Business Committee, 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.

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(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 to the Legislative Operating Committee. Upon receipt, the Legislative Operating Committee shall update the Oneida Register with the final version of the Rule.

17.8. Effective Date of Rules

17.8-1. The Authorized Agency shall determine a Rule's effective date, provided that a Rule may not become effective until the Legislative Operating Committee has provided the Authorized Agency with the written certification required by Section 17.7-2(a). A failure to publish an approved Rule by its effective 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.

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 emergency Rule, provided that, if the Oneida Business Committee deems it necessary, it may make revisions to the emergency Rule.

(1) If the Oneida Business Committee makes revisions to the emergency Rule that the Authorized Agency does not support, such concerns may be addressed when the Authorized Agency begins the process for enactment of the permanent Rule.

17.9-3. An emergency Rule becomes effective immediately upon its 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

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(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 Rule is permanently adopted in the emergency Rule's place before the emergency Rule expires under (a) or (b).

17.9-4. As soon as possible after emergency 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 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

~~17.11-1. Only persons or Entities aggrieved by the promulgation of a Rule under this Law, are entitled to judicial review of a Rule by 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;~~

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~~(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.~~
 17.11-2. The Oneida Judiciary may uphold the validity of the Rule; or it may 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 Tribe's Constitution;
 (b) In excess of the Authorized Agency's Rulemaking Authority or is otherwise unlawful.
~~17.11-3. Statute of Limitations. No~~The Judiciary may render a declaratory judgment to determine the validity of a Rule in the same manner that the Judiciary may do so for a Law; as identified in section 150.5-2(e) of the Judiciary Law. Provided that, 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).~~
 17.11-4². 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~~by Authorized Agencies

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) 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~~recognized that the Authorized Agency is accepted by the Tribe as the subject matter expert in the given field and shall provide the Authorized Agency with deference by upholding the action unless it finds that the action:

- (a) Amounts to a violation of the Tribe's Constitution;
- (b) Was in excess of the Authorized Agency's Rulemaking Authority or is otherwise unlawful;
- (c) Was clearly erroneous in view of the entire administrative and factual records; or
- (d) Was arbitrary or capricious; or
- (e) Exhibited a procedural irregularity which would be considered a harmful error that may have contributed to the final decision and if said irregularity were not present, the decision would have been different.

End.



Notice of

Public Meeting

to be held

December 3, 2015 at 12:15 p.m.

OBC Conference Room—2nd Floor, Norbert Hill Center



Topic: Administrative Rulemaking

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal for this new law that:

- ◆ Allows Authorized Agencies to prepare their 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], except that the OBC is still responsible for adopting emergency Rules before they go into effect. [17.9]
- ◆ The OBC reviews a Rule once it has been certified by the LOC. This Law sets out a detailed process for the OBC to repeal/change a Rule within a certain period of time. [17.7]
- ◆ Has 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]
- ◆ Identifies 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.)

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until December 10, 2015

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office, which is located on the second floor of the Norbert Hill Center, Oneida WI.

**Mail: Legislative Reference Office
PO Box 365
Oneida, WI 54155**

**Phone: (920) 869-4376 or (800) 236-2214
E-Mail: LOC@oneidanation.org
Fax: (920) 869-4040**

Chapter 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.

This Law does not apply to standard operating procedures, defined as "statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency." [17.4-1]

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

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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 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 also provides for standards of review for actions taken pursuant to a Rule – enabling a Tribal hearing body or the Judiciary to uphold, or reverse an action, or remand the matter for further consideration; but also adding that Authorized Agencies are recognized as subject matter experts in a given field, so Tribal hearing bodies are required to provide an Authorized Agency with deference by upholding the action taken unless it meets one of the criteria listed in this Law. [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?

A Rule is “a set of requirements enacted by an Authorized Agency in order to implement, interpret and/or enforce a law or policy of the Tribe.” [17.3-1(f)]

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.

Rules developed pursuant to this Law have the same force and effect as the law which they are promulgated, and must be followed by both the general public and the Authorized Agency that promulgated the Rule. [17.4-1]

Who can propose/request that a Rule be developed?

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 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, the Agency must 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

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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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 is in effect to up to six months, and 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.
- A memo identifying every public comment received and the agency’s response to each.
- The effective date for the new Rule or amendments to go into effect. [17.10-1.]

Then, if the Rule 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

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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

This Law allows for the Judiciary to render a declaratory judgment as to whether a Rule is valid, in the same way it does for laws, as provided in 150.5-2(e) of the Judiciary Law. [17.11-1]

There is a one-year statute of limitations for contesting a Rule by claiming that it was not promulgated in accordance with this Law. [17.11-3]

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]

New Responsibilities

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- 138 • **New Entity Responsibilities:** Every Tribal board, committee, commission, department
139 and officer that is delegated authority in a Tribal law to implement or enforce a Tribal
140 law is now responsible for developing their own rules, and for each rule they are now
141 responsible for: conducting public comment periods, creating a fiscal analysis, and
142 preparing various reports; including memos identifying the procedural timeline, and
143 identifying/responding to every public comment received. [17.5-2 and 17.10-1(a-c)]
- 144 • **New LOC Responsibilities:**
 - 145 ○ Developing a form and style for Rules, to be followed by Authorized Agencies.
146 [17.5-1]
 - 147 ○ Reviewing submitted materials and either certifying a Rule when it has been
148 promulgated in accordance with this Law and forwarding it to the OBC, or
149 sending a rejected Rule back to the agency with specific feedback as to which
150 procedural requirements were not fulfilled. [17.7]
 - 151 ○ Publishing certified/final Rules on the Oneida Register. [17.7-2(a) and 17.7-3(f)]
 - 152 ○ Reviewing emergency Rules to determine whether there is a valid emergency.
153 [17.9-1]
- 154 • **New LRO Responsibilities:**
 - 155 ▪ Creating and maintaining a complete record of all proposed and adopted Rules,
156 including requesting any supporting information. [17.10-1]
 - 157 ▪ Creating and updating administrative histories for each rule – identifying the original
158 effective date and the effective date of amendments. [17.10-2]
 - 159 ▪ Publishing pre-existing and emergency Rules on the Register. [17.7-3 and 17.9-5]
 - 160 ▪ Preparing statements of effect for all Rules, upon request of the Agency. [17.5-2(d)]

Other

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

166 It is intended that the adopting Resolution for this Law would require authorized agencies
167 to forward any existing Rules to the Legislative Reference Office within 30 business days after
168 this Law is adopted, and that they would be published on the Oneida Register within 30 business
169 days after that.

170 The LPA was adopted by General Tribal Council (GTC) and can only be amended by
171 GTC; this Law would be adopted by the Oneida Business Committee (OBC) and could only be
172 amended or repealed by the OBC. [17.2-1 and 17.2-2]

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

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

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

181 A public meeting has not been held.

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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.
- 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:
 - This Law does not identify whether judicial review actions are appealable.
 - 17.12-2 states that when hearing an appeal or “contest of an action” the hearing body must uphold the action unless it exhibited “a procedural irregularity which would be considered a harmful error that may have contributed to the final decision and if said irregularity were not present, the decision would have been different.” However, this appears to be mixing actions and decisions – the hearing body must uphold an action unless the action “exhibited a procedural irregularity that may have contributed to the final decision” – It may be difficult for a reader to interpret or understand how this applies.
- The provisions governing how the OBC can amend a Rule may need review:
 - An authorized agency has “discretion” to conduct an additional public comment period if the OBC requested substantial revisions, but is not required to do so. This appears to mean that the Agency is not required to follow the standard process for amending Rules.
 - The law is not clear on the process for the OBC to adopt an amended Rule [17.7-3] – this Law sets out a detailed process for Rulemaking, and if the OBC is authorized to amend a Rule after it has been adopted by an Agency, the Law may need to identify which parts of the process would be necessary.
- When the LPA is next amended, it is also recommended that the definition of the Oneida Register be revised to state that it includes agency “Rules” instead of agency regulations, to reflect this Law.
- There are various issues related to the definitions for Authorized Agency and the Rulemaking Authority, including:
 - 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.

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- 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”.
 - 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.
- 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 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 sentence 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 permits some deviation.
- 17.6-2(b) requires the published notice to include “information for electronically accessing the summary report” - This provision only requires that the membership be told how to access materials online, which may cause problems for members without access to the internet. This is a policy call.
- 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

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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 additional, minor, language-related issues which will be brought to the sponsor for consideration, and which 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 is to provide a process for the adoption and amendment of administrative Rules.

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

- (a) There is an efficient, effective and democratic process for enacting and revising administrative Rules.
- (b) That Authorized Agencies act in a responsible and consistent manner when enacting and revising the administrative Rules.

17.2. Adoption, Amendment, Repeal

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

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

17.2-3. 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.

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

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

17.3. Definitions

17.3-1. 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 use.

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

(b) “Business Day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Tribe.

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(c) “Financial Analysis” means an estimate of the total fiscal year financial effects associated with a proposed Rule prepared by the Authorized Agency proposing the Rule. It includes startup costs, personnel, office, documentation costs, 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 Tribe’s website by the Legislative Operating Committee which contains, at a minimum, agency Rules, proposed legislation and notices, and either the Oneida Code of Laws or directions to obtain free access to the Oneida Code of Laws.

(f) “Rule” means a set of requirements enacted by an Authorized Agency in order to implement, interpret and/or enforce a law or policy of the Tribe.

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

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

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

17.4. General

17.4-1. *Administrative Rulemaking.* Only Authorized Agencies may promulgate Rules; this Law does not confer Rulemaking Authority. Authorized Agencies shall adhere to the 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 Rulemaking Authority granted under the law for which the Rule is being promulgated.

(a) This Law does not apply to standard operating procedures, which for the purposes of this section are statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency.

(b) Rules developed pursuant to this Law have the same force and effect as the law which delegated the Authorized Agency Rulemaking Authority and must be followed by both the general public and the Authorized Agency promulgating the Rule.

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 remain in effect unless directed to be updated based on this Law’s requirements by the

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Oneida Business Committee. Any amendments made to Rules already in effect must follow the requirements of this Law.

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.

(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 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 17.6 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) the Financial Analysis, for which the Authorized Agency shall send a written request to each Entity that may be affected by the proposed 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 a public comment period, which must include a public meeting. Nothing in this Section prohibits or restricts the holding of any other type of community meeting which may be used to gather input on Rules.

17.6-2. *Public Meetings.* When a public meeting on a proposed Rule is scheduled by an Authorized Agency, it must be held in accordance with the following requirements.

(a) The Authorized Agency shall set a date for the public meeting and have the notice published in the Kalihwisaks and in the Oneida Register not less than ten (10) business days prior to the meeting.

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(b) The notice must include:

(1) information for electronically accessing the summary report required under Section 17.5-2;

(2) the date, time, and place of the scheduled public meeting; and

(3) the name, address, phone number, and other appropriate information to submit written comments on the Rule and the time period during which the Authorized Agency shall accept comments.

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

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

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

(f) The Authorized Agency shall audio record the public meeting and persons who provide oral comments shall state their name for the record.

(g) The Authorized Agency shall hold the record open for the submission of written comments for a minimum of five (5) business days following the public meeting, provided that, the Authorized Agency may extend the comment period as it deems appropriate by 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

17.7-1. After a public meeting is held and the public comment period has expired, the Authorized Agency shall submit the proposed Rule and the items it must contribute for the administrative record pursuant to Section 17.10 to the Legislative Operating Committee, 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 take one (1) of the following actions:

(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

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(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 specific feedback as to which procedural requirements were not fulfilled by the Authorized Agency.

17.7-3. 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 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 shall work with the Oneida Business Committee to address any concerns.

(a) Unless the Oneida Business Committee repeals the Rule, the Rule will remain in effect while the Authorized Agency and the Oneida Business Committee 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 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 do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt a revised Rule that incorporates the amendments it deems necessary.

(d) If substantial revisions are requested by the Oneida Business Committee, 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 to the Legislative Operating Committee. Upon receipt, the Legislative Operating Committee shall update the Oneida Register with the final version of the Rule.

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11/04/2015**17.8. Effective Date of Rules**

17.8-1. The Authorized Agency shall determine a Rule's effective date, provided that a Rule may not become effective until the Legislative Operating Committee has provided the Authorized Agency with the written certification required by Section 17.7-2(a). A failure to publish an approved Rule by its effective 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.

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 emergency Rule, provided that, if the Oneida Business Committee deems it necessary, it may make revisions to the emergency Rule.

(1) If the Oneida Business Committee makes revisions to the emergency Rule that the Authorized Agency does not support, such concerns may be addressed when the Authorized Agency begins the process for enactment of the permanent Rule.

17.9-3. An emergency Rule becomes effective immediately upon its 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 Rule is permanently adopted in the emergency Rule's place before the emergency Rule expires under (a) or (b).

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17.9-4. As soon as possible after emergency 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 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

17.11-1. The Judiciary may render a declaratory judgment to determine the validity of a Rule in the same manner that the Judiciary may do so for a Law; as identified in section 150.5-2(e) of the Judiciary Law. Provided that, 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.

17.11-2. 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 by Authorized Agencies

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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) 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 recognize that the Authorized Agency is accepted by the Tribe as the subject matter expert in the given field and shall provide the Authorized Agency with deference by upholding the action unless it finds that the action:

- (a) Amounts to a violation of the Tribe's Constitution;
- (b) Was in excess of the Authorized Agency's Rulemaking Authority or is otherwise unlawful;
- (c) Was clearly erroneous in view of the entire administrative and factual records; or
- (d) Was arbitrary or capricious; or
- (e) Exhibited a procedural irregularity which would be considered a harmful error that may have contributed to the final decision and if said irregularity were not present, the decision would have been different.

End.



Legislative Operating Committee November 4, 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.
- 10/21/15:** Motion by Fawn Billie to defer the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the sponsor to address the concerns and considerations and to prepare for a December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.

Next Steps:

- Review the public meeting packet and, if appropriate, send the Comprehensive Policy 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

Article I. Purpose and Policy

1-1. It is the purpose of this 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 does not apply to the Tribe's corporations due to the corporate structure and autonomy of those 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 created by and for boards, committees and commissions.

Article II. Adoption, Amendment, Repeal

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

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

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity does 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 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 governs the definitions of words and phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

- a. "Application" means ~~any process~~ the form by which a person seeks to be appointed to a Vacancy or considered as a candidate for an election.

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- 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. "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.
- e. "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 ~~a majority of the Tribe's~~ eligible voters membership.
- ~~f. "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.f.~~ g.f. "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.g.~~ h.g. "Member" means any person appointed or elected to membership on an Entity.
- ~~i. "Per 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.h.~~ j.h. "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.
- ~~k.i.~~ k.i. "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.
- ~~l.i.~~ l.i. "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.
- ~~m.k.~~ m.k. "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- ~~n.l.~~ n.l. "Secretary" means the current elected Secretary of the Tribe or his or her designee.
- p. "Vacancy" means any position on 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.

Article IV. Applications

4-1. The Secretary shall generate, and the Oneida Business Committee must approve, the application form required to be used by all applicants.

4-2. Application forms must contain:

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a. questions designed to obtain the applicant's

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

b. additional questions, if necessary, to obtain information necessary to make an informed decision as to the qualifications of any individual to fill a Vacancy.

4-3. All applicants shall file their Applications with the 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 Secretary within five (5) business days of the deadline.

4-4. The Election Board shall verify all Applications for elected positions in accordance with the Oneida Election Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all Applications for appointed positions as needed or as required by the Entity's by-laws to ensure the eligibility and qualification requirements are met.

4-5. At the completion of the 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:

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."

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the Chairperson shall elect to either:

- a. Allow late Applications to be included within the applicant pool, or
- b. Repost the Vacancy for an additional time period. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

Article V. Vacancies

5-1. This Article governs when Vacancies occur, and where and when notice of the Vacancies

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must be posted.

5-2. The following Vacancies are effective as listed herein:

a. End of Term. A Vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends according to the Entity's by-laws.

b. Removal. Removal is effective ~~upon a determination to Remove pursuant to~~ as identified in the Removal Law.

c. Resignation. A resignation is effective upon:

1. Deliverance of a resignation letter to the Entity; or

2. The Entity's acceptance by motion of a verbal resignation.

d. Termination of Appointment. A termination is effective upon a two-thirds (2/3) majority vote of the entire Oneida Business Committee in favor of a Member's termination of appointment.

e. New Positions. Vacancies on new 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 by the Oneida Business Committee or General Tribal Council.

5-3. Entities shall notify the Secretary as soon as any 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. Except as expressly stated otherwise, the Secretary shall request permission from the Oneida Business Committee prior to posting notice of a Vacancy as set out in this Article and shall post notices of Vacancy within a reasonable time of the Oneida Business Committee's grant of permission, in accordance with the following:

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.

d. New Positions. If the Oneida Business Committee or General Council does not specify a date for posting new positions when creating an Entity, the Secretary shall request permission to post Vacancies for new positions no later than the first Oneida Business Committee following the ~~latter~~ later of either the creation of the Entity or the adoption of the Entity's by-~~law~~ laws.

e. Interim Members. Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following the completion of the term the interim Member was designated to hold.

f. Termination of Appointment. Permission to post notice of Vacancies based on termination of Appointment must be requested no later than the first Oneida Business

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Committee meeting following the effective date of the termination.

5-5. ~~At the direction of~~ After receiving permission from 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. 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~~ permission from 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 Entities

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

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

- a. Within five (5) business days after the 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 Chairperson shall either:
 1. choose an applicant(s) for appointment, or
 2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified 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).
 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~~ Direct the Chairperson ~~with direction~~ to prepare another recommendation; or

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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 vest upon taking the oath. The Secretary shall notify the chosen persons when they should appear for taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary.

1. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the 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), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.
- e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

6-4. The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include the following:

"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 (2/3) 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 that~~ there is cause for termination based on one (1) or more of the following ~~causes for termination~~:

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

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3. 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.
 4. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.
 5. Any other cause for termination established in the Entity's by-laws.
 6. Violations of Tribal law.
 7. Conducting him or herself in a manner that is detrimental to the Entity's reputation or that inhibits the Entity's ability to fulfill its responsibilities.
- b. The Oneida Business Committee's decision to terminate an appointment is a final and binding decision; there is no avenue for not subject to appeal of a termination of Appointment approved by the Oneida Business Committee.

Article VII. Elected Entities

7-1. ~~All Members of~~ To serve on an elected ~~Entities~~ Entity, a person must ~~have been~~ either be 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~~ as otherwise provided herein.

- 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:

"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."

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 vest upon taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people

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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), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

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

e. All oaths must be sufficient to make the appointee aware of ~~their~~his or her duty to the Tribe as ~~Members~~a Member of the Entity.

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

8-1. By-laws of all Boards, Committees and Commissions must conform to this outline. All existing Entities ~~must~~shall comply with this format and present by-laws for adoption within a reasonable time after creation of the Entity. By-laws must contain this minimum information, although more information is not prohibited.

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

8-3. 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. Sub-articles. Articles must be divided into the sub-articles provided below.

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

- 1. Name. State the full name of the Entity and any short name that will be officially used.
- 2. Authority. State the name of the creation document and provide the citation for such creation document, if any.
- 3. Office. Provide the official office or post box of the Entity.
- 4. Membership. Provide the following information:
 - A. Number of Members;
 - B. Whether the Entity is an elected or appointed body and how Members are elected or appointed;
 - C. How 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 all Stipends Members are eligible to receive and the requirements for collecting each Stipend, if any in addition to those contained in this Policy.

6. Trainings. Provide a comprehensive list of all trainings that the Entity deems necessary for Members to responsibly serve the Entity.

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

1. Chair and Vice-Chair. This section creates the positions of the Entity. Other positions may also be created here.
2. Chair duties. Because of the importance of this position, specifically list the chairperson's duties and limitations.
3. Vice-Chair duties. Because of the importance of this position, specifically list the vice-chairperson's duties and limitations.
4. Additional Offices and Duties. Include additional sub-articles to specifically list duties and limitations for every office created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.
5. How chosen. Specifically state how a Member of the Entity will be chosen to occupy an officer's position.
6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.

c. "Article III. Meetings" is to consist of the following information:

1. Regular meetings. State when and where regular meetings are to be held, and, explain how notice of the ~~agenda, documents, and minutes will be disbursed to the Members~~ meeting, agenda, documents, and minutes will be provided. At a minimum, the Entity shall provide public notice of regular meetings by posting the dates, time and location for all regular meetings once annually in the Tribe's newspaper and by maintaining the community calendar on the Tribe's website.
2. Emergency meetings. State how emergency meetings may be called and noticed, provided that, at a minimum, the Entity shall provide public notice of emergency meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the emergency meeting. The Entity ~~must~~ shall 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~~ 33. Special meetings. State how special meetings may be called and must be noticed, provided that, at a minimum, the Entity shall provide public notice of special meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the special meeting. In addition, Entities calling special meetings shall provide notice of all special meetings to the Oneida Business Committee in advance of the meeting, if possible, but if not possible, no later than the first Oneida Business Committee meeting following the special meeting.
- ~~4~~ 4. Quorum. State how many Members create a quorum.
- ~~4~~ 45. Order of Business. Explain how the agenda will be set.

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378 | 56. Voting. Provide voting requirements, including the requisite percentages for
379 passing different items and when, if at all, the chairperson may vote.

380 d. "Article IV. Reporting" is to consist of the following information:

- 381 1. Agenda items. Agenda items must be in an identified and consistent format.
382 2. Minutes. Minutes must be typed and in a consistent format designed to
383 generate the most informative record of the meetings of the Entity.
384 3. Attachments. Handouts, reports, memoranda, and the like may be attached to
385 the minutes and agenda, or may be kept separately, provided that all materials
386 can be identified based on the meeting in which they were presented.
387 4. Reporting. Entities shall report to their Oneida Business Committee member
388 who is their designated liaison intermittently as the Entity and the liaison agree
389 to, but not less than as required in any policy on reporting developed by the
390 Oneida Business Committee or Oneida General Tribal Council. Entities shall
391 also make quarterly reports to the Oneida Business Committee and annual and
392 semi-annual reports to the Oneida General Tribal Council as described below:

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

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

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

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

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

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

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

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

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

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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

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

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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:

- 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 expensed 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

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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.

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 an 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

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report, provide the new logo that may be included in the report.

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

1. Amendments to By-laws. Explain how amendments to the by-laws may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy and must be approved by the Oneida Business Committee prior to implementation.

Article IX. Minutes

9-1. All minutes must be submitted to the Secretary within a reasonable time after approval by the Entity.

9-2. Actions taken by an Entity are valid when minutes are approved, provided that, minutes are filed in accordance with this Article and 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 unless specifically required by the by-laws of that Entity.

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

Article X. Dissolution of Entities

10-1. Entities of the Tribe may be dissolved according to this Article; however, additional specific directions may be included in an Entity's by-laws.

10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

10-3. All other Entities may only be dissolved 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 must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

10-4. All chairpersons and secretaries of dissolved Entities shall close out open business of the Entities and forward materials to the Secretary.

Article XI. Stipends, Reimbursement and Compensation for Service

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

11-2. The Tribe recognizes that persons serving on Entities of the Tribe incur some expense. Therefore, the Tribe, in order to attract persons to serve on Entities, shall pay Stipends to these Members in accordance with this Article.

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined by the Entity, or declined by a Member(s), appointed Members serving on appointed Entities are to be paid a 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

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duly adopted by-laws of that Entity. Such meeting must last for at least one (1) hour and Members collecting Stipends must be present for at least one (1) hour of the meeting.

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

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined by the Entity, or declined by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting. Members collecting 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 and, based on the availability of funds, shall adjust those amounts accordingly by amending this Policy.

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.

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 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~~ per diem to offset the Member's costs for attending a Conference-, provided that:

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

b. A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.

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

11-8. All Members of Entities are eligible for reimbursement for normal business expenses naturally related to membership in the Entity.

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

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Article XII. Confidential Information

12-1. The Tribe is involved in numerous business ventures and governmental functions 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 Tribe that all Members maintain all information in a confidential manner, whether of historical, immediate, or future use or need. The Tribe desires that all Members who have access to the Tribe's confidential information be subject to specific limitations in order to protect the interest of the Tribe. It is the intention of the Tribe that no persons engaged 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 Tribe, disclosed to, acquired by, or generated by Members in confidence at any time during their elected or appointed term or during their employment.

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

12-4. 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 Tribe 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 Tribe and the Entity.

12-5. Members shall surrender to the Tribe, in good condition, all records kept by the Member pertaining to Entity membership upon completion of their term of membership, for any cause whatsoever.

12-6. No Member may disclose confidential information acquired by reason of his/her relationship or status with the 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 Tribe recognizes the ability of all persons to serve on an Entity. However, it is also recognized that the delegated authority and responsibilities of an Entity may cause conflict with membership on other Entities or employment.

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

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

13-4. This Article sets forth specifically prohibited conflicts of interests. However, for any individual candidate or Member of an Entity, additional conflicts may arise within the by-laws

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of that Entity or employment relationships.

13-5. No Member may act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a 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 Member may hold office in an Entity which has authority over the area in which the Member is employed by the Tribe or elsewhere. The Tribe recognizes the ability of all persons to serve on Entities of the Tribe, but also recognizes the conflict arising out of membership on an Entity and employment in an area over which the 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 is defined for this subpart as that area over which the Entity has subject matter jurisdiction delegated either by the Oneida Business Committee or the Oneida General Tribal Council, and for which such authority may be regulatory, oversight, or otherwise.

Subpart C. Financial Interests, Investments, and Gifts.

13-9. No Member, or their Immediate Family, may have a financial interest in any transaction between the Entity and an outside party.

a. For the purposes of this Policy, 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.

13-10. As referred to in this Subpart C, for the purposes of defining conflicts, Entity includes the programs or enterprises over which the Entity has delegated authority.

13-11. Members shall avoid personal investment in any business with which the Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, an investment by a Member in a business with which the Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:

a. the investment 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 Member's judgment in the performance of any services or obligations on behalf of the Tribe.

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

13-13. 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,

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customer, or supplier.

13-14. 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 affect or influence the Members' judgment in the performance of any services, duties, obligations or responsibilities to the Tribe, or may impair confidence in the Tribe and the Tribe's Entities.

13-15. Notwithstanding the foregoing, 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 Tribe.

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

13-17. A Member may enter into competition with the Tribe 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.

Subpart E. Use of the Tribe's Assets.

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

13-19. Each 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 the Generally Accepted Accounting Principles or other applicable criteria.

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

Subpart F. Disclosure.

13-21. Each Member shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Tribe by completely filling out the 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.

Subpart G. Reporting.

13-22. All conflicts or potential conflicts that arise during membership on an Entity must be immediately reported to the Secretary. Upon receiving information of a potential conflict of

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interest, the Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Tribe regarding the status of the Member.

13-23. Any evidence of noncompliance with any Policy regarding the use of the Tribe's assets 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. The Oneida Business Committee and/or the Oneida Law Office shall then make a determination of further action to be taken, if any.

Subpart H. Enforcement and Penalties.

13-24. Members found to be in violation of this 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.

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 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)

Amended - BC-9-27-06-E (permanent adoption of emergency amendments)

Amended - BC-09-22-10-C

Amended -



Notice of
Public Meeting
to be held



December 3, 2015 at 12:15 p.m.
OBC Conference Room—2nd Floor, Norbert Hill Center

Topic: Comprehensive Policy Governing Boards, Committees and Commissions Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal for these amendments to the policy that:

- ◆ 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.
- ◆ 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.

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until December 10, 2015

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office, which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: Legislative Reference Office
PO Box 365
Oneida, WI 54155

Phone: (920) 869-4376 or (800) 236-2214
E-Mail: LOC@oneidanation.org
Fax: (920) 869-4040

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Comprehensive Policy Governing Boards, Committees and Commissions

Yolihwakwe·kú Kayanl'ahsla? yethiya?tanú·nha tsi? ka·yá lonatlihu·tú·

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

Analysis by the Legislative Reference Office

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.
- Enable entities to make recommendations to the Chair regarding which applicant to appoint to their entity.
- Enable an appointed entity to seek termination of appointment for one of its members, for specific misconduct.

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- Update the requirements for providing notice to applicants seeking appointment or election.
- Change the requirements for how the Secretary must post notice of vacancies.
- Adding requirements for what an entity's bylaws must contain, including detailed reporting requirements.
- Add that if a person 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 1 year.
- 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, direct the Chair 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) and 7-1(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 any recommendations provided by the entity. [6-2(b)] Although not addressed in the current Policy; some entities already include similar provisions in their bylaws.
- A new provision is added that would enable an appointed entity to seek termination of appointment for one of its members for specific violations, which include:
 - Failure to meet and maintain the requisite qualifications per the entity's bylaws
 - Breach of confidentiality
 - 3 or more unexcused absences (not giving 24 hours' advance notice)
 - 4 or more consecutive absences – regardless of whether they are excused or not.

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- Any other cause for termination established in the entity's bylaws.
- Violations of Tribal law
- Conduct that is detrimental to the entity's reputation or that inhibits the Entity's ability to fulfill its responsibilities. [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. The amendments clarify that it is a form, not a process, and that it is also used by a person who seeks 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 OBC minutes. [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 permission from the OBC 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. [5-3]
- 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, which generally must be posted "within a reasonable time" after the OBC grants permission. [5-4]
 - Currently, the Secretary can automatically post notice 30 days before the end of a term, but the amended Policy would require the Secretary to obtain OBC permission first. However, for these notices, the Secretary may request permission "on an annual basis" – i.e. obtain permission for all such postings at once. [5-4]

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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
- A comprehensive list of all trainings that the entity deems necessary for members to responsibly serve the entity. This provision is added because 11-7 states that members are not eligible for conference stipends (the definition of conference includes training) unless required by law, bylaw or resolution.
- Specific identification of which officers have authority to sign off on travel on behalf of the entity.
- Any causes for termination or removal in addition to those identified in this Policy and Removal Law.
- Provisions governing special meetings – stating how special meetings may be called and must be noticed. The Policy also adds that entities calling special meetings must provide notice to the OBC, in advance of the meeting "if possible", otherwise no later than the first OBC meeting following the special meeting.
- New notice requirements:
 - Entities must provide public notice of regular meetings by posting the dates, time and location once annually in the Tribe's newspaper and by maintaining the community calendar on the Tribe's website.
 - Posting public notice of emergency meetings and special meetings at least 24 hours in advance on the Tribal website.
- 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.

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- 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)]

Miscellaneous Changes

Language is revised throughout the Policy so that those persons appointed and elected to serve on entities are no longer referred to as "officials" but as "members" instead. [3-1(h)]

The definition for "Immediate Family" changed so that it no longer includes a spouse's grandchildren or grandparents. [3-1(f)]

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)]

A new provision clarifies that when the OBC terminates a member's appointment; that decision cannot be appealed. [6-5]

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

The amendments add that whenever the Law Office is notified of noncompliance with any Policy regarding the use of Tribal assets, either the OBC or Law Office will make a determination of any further action to be taken. Currently, only the Law Office has authority to determine any further action to be taken. [13-23]

Various other minor changes have been made to improve the readability and quality of this Policy. These changes did not affect the content of the Policy.

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 much more complicated process. This also means that an elected entity could not request termination of appointment for appointed members like appointed entities could. This is a policy call.
- 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 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" – the requirements that were added, identifying specific reporting requirements, are several pages long and often repeat

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requirements from other related provisions. It may be easier to understand if separate requirements were combined instead of repeated.

- 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. Some entities, such as the School Board, have adopted Resolutions in the past, and there is nothing prohibiting other entities from doing so.
- There are a few provisions that may benefit from clarification:
 - 5-4(e): “Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following the completion of the term the interim Member was designated to hold.”
 - This appears to require notice to be posted after the end of the term the notice was posted for.
 - 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 permission from 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.”
 - This provision does not clearly state that the Secretary may change the deadline period, and so the last sentence may cause confusion. It may be beneficial to clarify intent.
 - 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.
 - It is not clear as to whether members would still be paid any stipends earned during the suspension, or whether they stop earning stipends during that time.
 - 13-9 states 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.
 - This provision may need clarification, the intent is not clear.
 - 11-6(a) If the Oneida Gaming Commission fails to comply with the requirements of this Policy ...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.
 - The intent is not clear; because this could be interpreted to mean employment benefits such as health insurance; and also because this could be interpreted to mean that non-essential travel is an employment benefit of the Gaming Commission. It is recommended that the specific employment benefits that could be suspended be identified in the Policy.
- There are various words in this Policy that are capitalized when they are used, however it

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has never been standard drafting practice to do this. Capitalizing words in the middle of a sentence may confuse readers, and often looks like a typographical error. It is not necessary to capitalize words just because they are defined, and it is recommended that this Policy be revised to either un-capitalize words that are not normally capitalized; or to ensure that any words that are capitalized, are done so consistently – not all defined words are capitalized throughout the Policy; and most of the defined words are still not always capitalized.

Additional minor language issues have been identified and will be discussed with the sponsor.

Comprehensive Policy Governing Boards, Committees and Commissions
Yolihwakwe'kú Kayanl'ahsla' yethiya'tanú'nha tsi' ka'yá lonatlihu'tú'

Article I. Purpose and Policy

1-1. It is the purpose of this 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 does not apply to the Tribe's corporations due to the corporate structure and autonomy of those 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 created by and for boards, committees and commissions.

Article II. Adoption, Amendment, Repeal

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

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

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity does 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 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.

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Article III. Definitions

3-1. This Article governs the definitions of words and phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

- a. "Application" means the form 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. "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.
- e. "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 Tribe's membership.
- f. "Immediate Family" means the 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, sister-in-law.
- g. "Member" means any person appointed or elected to membership on an Entity.
- h. "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.
- i. "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.
- j. "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.
- k. "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- l. "Secretary" means the current elected Secretary of the Tribe or his or her designee.
- p. "Vacancy" means any position on 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.

Article IV. Applications

4-1. The Secretary shall generate, and the Oneida Business Committee must approve, the application form required to be used by all applicants.

4-2. Application forms must contain:

- a. questions designed to obtain the applicant's
 - 1. name;
 - 2. address;
 - 3. phone number;
 - 4. enrollment number; and
 - 5. position applied for.
- b. additional questions, if necessary, to obtain information necessary to make an

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informed decision as to the qualifications of any individual to fill a Vacancy.

4-3. All applicants shall file their Applications with the 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 Secretary within five (5) business days of the deadline.

4-4. The Election Board shall verify all Applications for elected positions in accordance with the Oneida Election Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all Applications for appointed positions as needed or as required by the Entity's by-laws to ensure the eligibility and qualification requirements are met.

4-5. At the completion of the 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:

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."

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the Chairperson shall elect to either:

- a. Allow late Applications to be included within the applicant pool, or
- b. Repost the Vacancy for an additional time period. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

Article V. Vacancies

5-1. This Article governs when Vacancies occur, and where and when notice of the Vacancies must be posted.

5-2. The following Vacancies are effective as listed herein:

- a. End of Term. A Vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends according to the Entity's by-laws.
- b. Removal. Removal is effective as identified in the Removal Law.
- c. Resignation. A resignation is effective upon:
 1. Deliverance of a resignation letter to the Entity; or

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- 346 2. The Entity's acceptance by motion of a verbal resignation.
- 347 d. Termination of Appointment. A termination is effective upon a two-thirds (2/3)
- 348 majority vote of the entire Oneida Business Committee in favor of a Member's
- 349 termination of appointment.
- 350 e. New Positions. Vacancies on new Entities and for new positions on existing Entities
- 351 are effective upon adoption/amendment of by-laws.
- 352 f. Interim Positions. Vacancies of interim positions are effective upon creation by the
- 353 Oneida Business Committee or General Tribal Council.
- 354 5-3. Entities shall notify the Secretary as soon as any position(s) becomes vacant so that the
- 355 Secretary may post the notice of Vacancy in order to fill the Vacancy in accordance with the
- 356 requirements of this Article.
- 357 5-4. Except as expressly stated otherwise, the Secretary shall request permission from the
- 358 Oneida Business Committee prior to posting notice of a Vacancy as set out in this Article and
- 359 shall post notices of Vacancy within a reasonable time of the Oneida Business Committee's
- 360 grant of permission, in accordance with the following:
- 361 a. End of Term. The Secretary may request permission to post notice of Vacancies for
- 362 positions becoming vacant due to term completions on an annual basis; the notice of
- 363 Vacancy for each term completion must be posted thirty (30) days in advance of each
- 364 term completion.
- 365 b. Removal. Permission to post notice of Vacancies based on removal must be
- 366 requested no later than the first Oneida Business Committee meeting following the
- 367 effective date of the removal.
- 368 c. Resignation. Permission to post notice of Vacancies based on resignation must be
- 369 requested no later than the first Oneida Business Committee meeting following the
- 370 Secretary's receipt of notice of an effective resignation from the Entity.
- 371 d. New Positions. If the Oneida Business Committee or General Council does not
- 372 specify a date for posting new positions when creating an Entity, the Secretary shall
- 373 request permission to post Vacancies for new positions no later than the first Oneida
- 374 Business Committee following the later of either the creation of the Entity or the
- 375 adoption of the Entity's by-laws.
- 376 e. Interim Members. Permission to post notice of Vacancies of interim Members must
- 377 be requested no later than the first Oneida Business Committee meeting following the
- 378 completion of the term the interim Member was designated to hold.
- 379 f. Termination of Appointment. Permission to post notice of Vacancies based on
- 380 termination of Appointment must be requested no later than the first Oneida Business
- 381 Committee meeting following the effective date of the termination.
- 382 5-5. After receiving permission from the Oneida Business Committee, the Secretary shall post
- 383 notice of Vacancies in each of the following locations:
- 384 a. on the Tribe's website;
- 385 b. in the Kalihwisaks; and
- 386 c. any reasonable location requested by the Entity.
- 387 5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of
- 388 Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as

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practicable after noticing such error. Under these limited circumstances, the Secretary does not require permission from 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 Entities

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

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

- a. Within five (5) business days after the 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 Chairperson shall either:
 1. choose an applicant(s) for appointment, or
 2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified 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).
 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. Direct the Chairperson 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 vest upon taking the oath. The Secretary shall notify the chosen persons when they should appear for taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary.

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1. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the 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), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

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

e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

6-4. The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include the following:

"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 (2/3) 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 that there is cause for termination based on one (1) or more of the following:

1. Failure to meet and maintain the requisite qualifications as identified in the Entity's bylaws.
2. Breach of confidentiality.
3. 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.
4. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.
5. Any other cause for termination established in the Entity's by-laws.
6. Violations of Tribal law.
7. Conducting him or herself in a manner that is detrimental to the Entity's

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- reputation or that inhibits the Entity's ability to fulfill its responsibilities.
- b. The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

Article VII. Elected Entities

7-1. To serve on an elected Entity, a person must either be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement in accordance with the Oneida Election Law, except as otherwise provided herein.

- 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:

"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."

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 vest upon taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the 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), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.
- e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

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

8-1. By-laws of all Boards, Committees and Commissions must conform to this outline. All existing Entities shall comply with this format and present by-laws for adoption within a

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reasonable time after creation of the Entity. By-laws must contain this minimum information, although more information is not prohibited.

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

8-3. 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. Sub-articles. Articles must be divided into the sub-articles provided below.

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

- 1. Name. State the full name of the Entity and any short name that will be officially used.
- 2. Authority. State the name of the creation document and provide the citation for such creation document, if any.
- 3. Office. Provide the official office or post box of the Entity.
- 4. Membership. Provide the following information:
 - A. Number of Members;
 - B. Whether the Entity is an elected or appointed body and how Members are elected or appointed;
 - C. How 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 all Stipends Members are eligible to receive and the requirements for collecting each Stipend, if any in addition to those contained in this Policy.
- 6. Trainings. Provide a comprehensive list of all trainings that the Entity deems necessary for Members to responsibly serve the Entity.

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

- 1. Chair and Vice-Chair. This section creates the positions of the Entity. Other positions may also be created here.
- 2. Chair duties. Because of the importance of this position, specifically list the chairperson's duties and limitations.
- 3. Vice-Chair duties. Because of the importance of this position, specifically list the vice-chairperson's duties and limitations.
- 4. Additional Offices and Duties. Include additional sub-articles to specifically list duties and limitations for every office created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.
- 5. How chosen. Specifically state how a Member of the Entity will be chosen to

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occupy an officer's position.

6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.

c. "Article III. Meetings" is to consist of the following information:

1. Regular meetings. State when and where regular meetings are to be held, and, explain how notice of the meeting, agenda, documents, and minutes will be provided. At a minimum, the Entity shall provide public notice of regular meetings by posting the dates, time and location for all regular meetings once annually in the Tribe's newspaper and by maintaining the community calendar on the Tribe's website.

2. Emergency meetings. State how emergency meetings may be called and noticed, provided that, at a minimum, the Entity shall provide public notice of emergency meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the emergency meeting. The Entity shall 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. Special meetings. State how special meetings may be called and must be noticed, provided that, at a minimum, the Entity shall provide public notice of special meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the special meeting. In addition, Entities calling special meetings shall provide notice of all special meetings to the Oneida Business Committee in advance of the meeting, if possible, but if not possible, no later than the first Oneida Business Committee meeting following the special meeting.

4. Quorum. State how many Members create a quorum.

5. Order of Business. Explain how the agenda will be set.

6. Voting. Provide voting requirements, including the requisite percentages for passing different items and when, if at all, the chairperson may vote.

d. "Article IV. Reporting" is to consist of the following information:

1. Agenda items. Agenda items must be in an identified and consistent format.

2. Minutes. Minutes must be typed and in a consistent format designed to generate the most informative record of the meetings of the 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 based on the meeting in which they were presented.

4. Reporting. Entities shall report to their Oneida Business Committee member who is their designated liaison intermittently as the Entity and the liaison agree to, but not less than as required in any policy on reporting developed by the

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Oneida Business Committee or Oneida General Tribal Council. Entities shall also make quarterly reports to the Oneida Business Committee and annual and semi-annual reports to the Oneida General Tribal Council as 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;

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

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

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overseen by the Entity; at a minimum, the report must contain the following information:

- 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 expensed 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

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held, at what time they are held and whether they are open or closed.

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 an 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" is to consist of:

1. Amendments to By-laws. Explain how amendments to the by-laws may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy and must be approved by the Oneida Business Committee prior to implementation.

Article IX. Minutes

9-1. All minutes must be submitted to the Secretary within a reasonable time after approval by the Entity.

9-2. Actions taken by an Entity are valid when minutes are approved, provided that, minutes

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are filed in accordance with this Article and 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 unless specifically required by the by-laws of that Entity.

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

Article X. Dissolution of Entities

10-1. Entities of the Tribe may be dissolved according to this Article; however, additional specific directions may be included in an Entity's by-laws.

10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

10-3. All other Entities may only be dissolved 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 must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

10-4. All chairpersons and secretaries of dissolved Entities shall close out open business of the Entities and forward materials to the Secretary.

Article XI. Stipends, Reimbursement and Compensation for Service

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

11-2. The Tribe recognizes that persons serving on Entities of the Tribe incur some expense. Therefore, the Tribe, in order to attract persons to serve on Entities, shall pay Stipends to these Members in accordance with this Article.

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined by the Entity, or declined by a Member(s), appointed Members serving on appointed Entities are to be paid a 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. Such meeting must last for at least one (1) hour and Members collecting Stipends must be present for at least one (1) hour of the meeting.

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

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined by the Entity, or declined by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting. Members collecting 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

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meeting Stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this Policy.

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.

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 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 to offset the Member's costs for attending a Conference, provided that:

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

b. A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.

c. No Stipend payments may be made for those days spent traveling to and from the Conference.

11-8. All Members of Entities are eligible for reimbursement for normal business expenses naturally related to membership in the Entity.

11-9. Task Force and Ad Hoc Committee Members and Members of subcommittees are not eligible for 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 Tribe is involved in numerous business ventures and governmental functions 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 Tribe that all Members maintain all information in a confidential manner, whether of historical, immediate, or future use or need. The Tribe desires that all Members who have access to the Tribe's confidential information be subject to specific limitations in order to protect the interest of the Tribe. It is the intention of the Tribe that no persons engaged 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 Tribe, disclosed to, acquired by, or generated by Members in confidence at any time during their elected or appointed term or during their

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employment.

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

12-4. 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 Tribe 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 Tribe and the Entity.

12-5. Members shall surrender to the Tribe, in good condition, all records kept by the Member pertaining to Entity membership upon completion of their term of membership, for any cause whatsoever.

12-6. No Member may disclose confidential information acquired by reason of his/her relationship or status with the 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 Tribe recognizes the ability of all persons to serve on an Entity. However, it is also recognized that the delegated authority and responsibilities of an Entity may cause conflict with membership on other Entities or employment.

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

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

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

13-5. No Member may act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a 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 Member may hold office in an Entity which has authority over the area in which the Member is employed by the Tribe or elsewhere. The Tribe recognizes the ability of all persons to serve on Entities of the Tribe, but also recognizes the conflict arising out of membership on an Entity and employment in an area over which the 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.

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

Subpart C. Financial Interests, Investments, and Gifts.

13-9. No Member, or their Immediate Family, may have a financial interest in any transaction between the Entity and an outside party.

a. For the purposes of this Policy, 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.

13-10. As referred to in this Subpart C, for the purposes of defining conflicts, Entity includes the programs or enterprises over which the Entity has delegated authority.

13-11. Members shall avoid personal investment in any business with which the Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, an investment by a Member in a business with which the Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:

- a. the investment 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 Member's judgment in the performance of any services or obligations on behalf of the Tribe.

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

13-13. 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.

13-14. 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 affect or influence the Members' judgment in the performance of any services, duties, obligations or responsibilities to the Tribe, or may impair confidence in the Tribe and the Tribe's Entities.

13-15. Notwithstanding the foregoing, 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 Tribe.

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

13-17. A Member may enter into competition with the Tribe 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.

Subpart E. Use of the Tribe's Assets.

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

13-19. Each 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 the Generally Accepted Accounting Principles or other applicable criteria.

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

Subpart F. Disclosure.

13-21. Each Member shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Tribe by completely filling out the 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.

Subpart G. Reporting.

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

13-23. Any evidence of noncompliance with any Policy regarding the use of the Tribe's assets 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. The Oneida Business Committee and/or the Oneida Law Office shall then make a determination of further action to be taken, if any.

Subpart H. Enforcement and Penalties.

13-24. Members found to be in violation of this 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.

- a. A Member who has been terminated or removed is ineligible for Appointment or

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992 election to any Entity for at least one (1) year from the effective date of the termination or
993 removal.

994 13-25. Candidates for appointment or election to an office found to be in violation of this
995 Policy may be disqualified from taking office.

996

997 *End.*

~~998~~

1000

1001 Adopted - BC-8-2-95-A

1002 Amended - BC-5-14-97-F

1003 Emergency Amendments - BC-03-06-01-A (expired)

1004 Emergency Amendments - BC-04-12-06-JJ

1005 Emergency Amendments - BC-11-12-09-C

1006 Emergency Amendments Extension - BC-05-12-10-I (expired)

1007 Amended - BC-9-27-06-E (permanent adoption of emergency amendments)

1008 Amended – BC-09-22-10-C

1009 Amended -

1010

1011



Legislative Operating Committee

November 4, 2015

Leasing Law

Submission Date: September 17, 2014

☐ Public Meeting:
☐ Emergency Enacted:

LOC Sponsor: Tehassi Hill

Summary: *This item was carried over into the current term by the LOC. Development of a new law would allow the Tribe to approve surface leases at their discretion, instead of the Secretary of Interior, so long as the Secretary of Interior has approved Tribal surface lease regulations.*

09/17/14 LOC: Motion by Tehassi Hill to add the Leasing Law to the Active Files List with Tehassi Hill as sponsor; seconded by Fawn Billie. Motion carried unanimously.

12/17/14 LOC: Motion by Jennifer Webster to direct that a legislative analysis and a fiscal impact statement be completed on the Leasing Law; seconded by Tehassi Hill. Motion carried unanimously.

02/04/15 LOC: Motion by Tehassi Hill to send the Leasing Law back to the Legislative Reference Office to make the noted changes, update the analysis and bring back to the March 4, 2015 Legislative Operating Committee meeting; seconded by Fawn Billie. Motion carried unanimously.

3/4/15 LOC: Motion by Jennifer Webster to delete lines 209 through 225 and lines 231 through 245 from the legislative analysis and forward the Leasing Law to an April 2, 2015 public meeting; seconded by Fawn Billie. Motion carried unanimously.

Noted for the Record: the considerations highlighted in the legislative analysis have been addressed by the LOC.

4/2/15: Public meeting held.

5/6/15 LOC: Motion by David P. Jordan to forward the Leasing Law to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

5/13/15 OBC: Motion by Brandon Stevens to adopt resolution 05-13-15-C Leasing Law, seconded by David Jordan. Motion carried unanimously.

Amendment to the main motion by Melinda J. Danforth to amend the resolution to include a resolve that states that this law shall take effect thirty (30) days after approval by the Secretary of the Interior, seconded by David Jordan. Motion carried unanimously.

5/18/15: Leasing Law was sent to the Department of Interior for consideration.

10/15/15: Work meeting held, attendees include: Brandon Stevens, Victoria Flowers, Jeff Mears and Krystal John.

Next Steps:

- Review the Leasing Law, provide feedback, if any, and forward for the required analyses.

Chapter 65 LEASING

65.1. Purpose and Policy
65.2. Adoption, Amendment, Repeal
65.3. Definitions
65.4. General Provisions
65.5. Lease and Lease Document Requirements
65.6. Residential Leases

65.7. Agricultural Leases
65.8. Business Leases
65.9. Environmental and Cultural Reviews
65.10. Lease Management
65.11. Enforcement
65.12. Appeals

65.1. Purpose and Policy

65.1-1. *Purpose.* The purpose of this Law is to set out the Tribe's authority to issue, review, approve and enforce ~~leases~~Leases. In addition, the purpose of this Law is to meet the requirements of the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) by establishing a process under which the Tribe will be able to approve ~~leases~~Leases on Tribal ~~trust~~Trust ~~land~~Land without additional approval of the Secretary of the Interior.

65.1-2. *Policy.* It is the policy of the Tribe to set out the expectations and responsibilities of the ~~lessors~~Lessors and ~~lessees~~Lessees of Tribal ~~land~~Land and to ensure the ~~leasing~~Leasing of Tribal ~~land~~Land results in minimal risk to the Tribe.

65.2. Adoption, Amendment, Repeal

65.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-13-15-C ~~and amended by resolution BC-~~and shall take becomes effective thirty (30) days after approval by the Secretary of the Interior.

65.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act. Major ~~and~~, substantive changes to this Law ~~shall may~~shall not take effect until they have been approved by the Secretary of the Interior. Minor~~,~~ ~~and~~and technical amendments may take effect upon approval by the Oneida Business Committee.

65.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall does~~shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

65.2-4. In the event of a conflict between a provision of this Law and a provision of another Tribal law, the provisions of this Law ~~shall~~shall control.

(a) To the extent that this Law conflicts with any applicable federal statutes or regulations, the federal statute or regulation ~~shall~~shall control.

(b) To the extent that any lease to which this Law applies conflicts with this Law, this Law ~~shall~~shall control~~s~~.

65.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

65.3. Definitions

65.3-1. This section ~~shall~~shall govern~~s~~ the definitions of words and phrases used within this Law. All words not defined herein ~~shall are to~~shall be used in their ordinary and everyday sense.

(a) "Assignment" ~~shall means~~shall mean an agreement between a ~~lessee~~Lessee and an assignee whereby the assignee acquires all or some of the ~~lessee's~~Lessee's rights and assumes all or some of the ~~lessee's~~Lessee's obligations under a ~~lease~~Lease.

(b) "Cultural Heritage Department" ~~shall means~~shall mean the Tribal entity responsible for conducting ~~cultural~~Cultural ~~reviews~~Reviews as required under this Law.

(c) “Cultural ~~review~~Review” ~~shall mean~~s a review of the anticipated effects of a proposed ~~lease-Lease~~ or ~~lease-Lease document-Document~~ on archaeological, cultural and/or historic resources.

(d) “Day” ~~or “days” shall mean~~s calendar days, unless otherwise specified.

~~(e) “Encumbrance” shall mean a claim or liability that is attached to property.~~

~~(f)~~(e) “Environmental, Health and Safety Division” ~~shall mean~~s the Tribal entity responsible for conducting ~~environmental-Environmental reviews-Reviews~~ as required under this Law.

~~(g)~~(f) “Environmental ~~review~~Review” ~~shall mean~~s a review of the anticipated environmental effects of a proposed ~~lease-Lease~~ or ~~lease-Lease document-Document~~.

~~(h)~~(g) “Improvements” ~~shall mean~~s buildings, other structures, and associated infrastructure attached to the ~~leased-Leased~~ premises.

~~(i)~~(h) “Land Management” ~~shall mean~~s the Division of Land Management or other Tribal entity responsible for entering into ~~leases-Leases~~ of Tribal ~~land-Land~~.

~~(j)~~(i) “Lease” ~~shall mean~~s a written contract between the Tribe and a ~~lessee-Lessee~~, whereby the ~~lessee-Lessee~~ is granted a right to use or occupy Tribal ~~land-Land~~, for a specified purpose and duration.

~~(k)~~(j) “Lease ~~document-Document~~” ~~shall mean~~s a ~~Lease, lease-Lease~~ amendment, ~~lease-Lease~~ assignment, ~~sublease-Sublease~~ or ~~encumbrance-Leasehold Mortgage~~.

~~(l)~~(k) “Leasehold ~~mortgage-Mortgage~~” ~~shall mean~~s a mortgage, deed of trust, or other instrument that pledges a ~~lessee’s-Lessee’s~~ leasehold interest as security for a debt or other obligation owed by the ~~lessee-Lessee~~ to a lender or other mortgagee.

~~(m)~~(l) “Lessee” ~~shall mean~~s a person or entity who has acquired a legal right to use or occupy Tribal ~~land-Land~~ by a ~~lease-Lease~~ under this Law, or one who has the right to use or occupy a property under a ~~lease-Lease~~.

~~(n)~~(m) “Lessor” ~~shall mean~~s the Tribe, in its capacity as the legal, beneficial and/or equitable owner of Tribal ~~land-Land~~ subject to a ~~lease-Lease, and any administrator or assign of the Tribe~~.

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

~~(p)~~(o) “Performance ~~bond-Bond~~” ~~shall mean~~s a bond given to ensure the timely performance of a ~~lease-Lease~~.

~~(q)~~(p) “Secretary” ~~shall mean~~s the Secretary of the Interior, U.S. Department of the Interior, or its authorized representative.

~~(r)~~(q) “Sublease” ~~shall mean~~s a written agreement by which the ~~lessee-Lessee~~ grants to a person or entity a right to use or occupy no greater than that held by the ~~lessee-Lessee~~ under the ~~lease-Lease~~.

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

~~(t)~~(s) “Tribal ~~land-Land~~” ~~shall mean~~s ~~Tribal trust land and any land owned by the Tribe held in fee status~~any tract, or interest therein, in which the surface estate is owned by the Tribe as Tribal Trust Land or as restricted status, and includes such lands reserved for BIA administrative purposes. The term also includes the surface estate of lands held by the United States in trust for an Indian corporation chartered under Section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. §477).

~~(u)~~(t) “Tribal ~~trust-Trust land-Land~~” ~~shall mean~~s the surface estate of land or any interest therein held by the United States in trust for the Tribe; land held by the Tribe subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes;

and/or land held by the United States in trust for ~~a Tribal corporation chartered~~ the Tribe
under Section 17 of the Indian Reorganization Act, 25 U.S.C §§ ~~461-479~~ 477, et. seq.

65.4. General Provisions

65.4-1. *Applicable Land.* This Law applies to all Tribal land.

65.4-2. *Applicable Leases.*

(a) Except as excluded in (b) below, or as contrary to applicable federal statutes and regulations, this Law ~~shall applies~~ to all residential, agricultural and business ~~leases~~ Leases executed by the Tribe and to all actions and decisions taken in connection with those ~~leases~~ Leases. Provided that, nothing herein ~~shall may~~ be construed to affect the terms and conditions of ~~leases—Leases~~ existing when this Law goes into effect or amendments, ~~assignments~~ Assignments, ~~subleases—~~ Subleases or ~~encumbrances~~ Encumbrances made to those ~~leases~~ Leases.

(b) This Law ~~shall does~~ not apply to mineral ~~leases—Leases~~ or to any ~~lease—Lease~~ of individually owned Indian allotted land in accordance with 25 U.S.C. 415(h)(2).

65.4-3. *Applicable Law.* In addition to this Law, ~~leases—Leases~~ approved under this Law are subject to:

(a) all Tribal law, except to the extent those Tribal laws are inconsistent with applicable federal law; and

(b) applicable federal laws; and

~~(c) any specific federal statutory requirements that are not incorporated in this Law.~~

65.4-4 Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to the Tribe under federal law, the Secretary may, upon reasonable notice from the Tribe and at the discretion of the Secretary, enforce the provisions of, or cancel, any residential, agricultural or business ~~lease—Lease~~ on Tribal ~~trust—Trust land—Land~~ executed by the Tribe. The United States ~~shall may~~ not be liable for losses sustained by any party to a residential, agricultural or business ~~lease—Lease~~ executed pursuant to this Law.

65.4-5. All disputes over residential, agricultural and business ~~leases—Leases~~ ~~shall must~~ be resolved under the laws of the Tribe and in accordance with federal law. Nothing in this Law ~~shall may~~ be construed to waive the Tribe's sovereign immunity.

65.4-6. After the Secretary approves this Law, all ~~leases—Leases~~ of Tribal ~~trust—Trust land—Land~~ approved and executed under this Law ~~shall may~~ become effective without federal approval under 25 U.S.C. 415(h), unless the Secretary rescinds approval of this Law and reassumes responsibility for such approval.

65.5. Lease and Lease Document Requirements

65.5-1. *Information and Application.* Land Management shall approve and execute all ~~leases~~ Leases. Information on obtaining residential, agricultural or business ~~leases—Leases~~ or ~~lease—Lease documents—Documents~~ ~~shall must~~ be available at Land Management. Parties interested in obtaining a residential, agricultural or business ~~lease—Lease~~ or ~~lease—Lease document~~ Document shall submit an application to Land Management pursuant to the rules and standard operating procedures developed by and available with Land Management.

(a) Land Management shall develop, and the Oneida Land Commission ~~shall must~~ approve, the format and requirements set out in the ~~lease—Lease~~ and ~~lease—Lease document~~ Document applications for different types of ~~leases~~ Leases, as well as additional procedures and processes to be followed when offering and awarding ~~leases—Leases~~ and ~~lease—Lease documents~~ Documents.

65.5-2. *Terms and Conditions.* Leases ~~shall must~~ be in writing and contain, at a minimum, the

following:

- (a) A description of the land or building being ~~leased~~Leased; business ~~leases~~Leases ~~shall must~~ contain ~~adequate~~ site surveys and legal descriptions based on metes and bounds, rectangular, or lot and block systems which meet the requirements of the Land Titles and Records Offices of the Bureau of Indian Affairs;
- (b) The effective date and term of the ~~lease~~Lease;
- (c) The purpose of the ~~lease~~Lease and authorized uses of the ~~leased~~Leased premises;
- (d) The parties to the ~~lease~~Lease;
- (e) How much rent is due, when it is due, who receives it, what form(s) of payment is acceptable, and whether any late payment charges or special fees apply and the rate of interest to be charged if the ~~lessee~~Lessee fails to make payments in a timely manner;
- (f) Whether there will be rental reviews or adjustments, how and when they will be done, when any adjustments will be effective and how disputes regarding adjustments will be resolved;
- (g) Who ~~will be~~is responsible for any taxes applied to the property and/or ~~improvements~~Improvements;
- (h) Due diligence requirements that apply, if any;
- (i) Performance ~~bond~~Bond and insurance requirements that apply, if any;
- (j) Land Management or the Secretary has the right, at any reasonable time during the term of the ~~lease~~Lease and upon reasonable notice, in accordance with ~~federal regulations~~this Law and any other applicable Tribal laws, policies and rules, to enter the ~~leased~~Leased premises for inspection and to ensure compliance with the ~~lease~~Lease;
- (k) The ~~lessee~~Lessee holds the United States and the Tribe harmless from any loss, liability or damages resulting from the ~~lessee's~~Lessee's use or occupation of the ~~leased~~Leased premises;
- (l) The ~~lessee~~Lessee indemnifies the United States and the Tribe against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the ~~leased~~Leased premises that occurs during the lease term, regardless of fault, with the exception that the ~~lessee~~Lessee is not required to indemnify the Tribe for liability or cost arising from the Tribe's negligence or willful misconduct; and
- (m) Land Management ~~or the Secretary~~ may, at its discretion, treat as a ~~lease~~Lease violation any failure by the ~~lessee~~Lessee to cooperate with a request to make appropriate records, reports or information available for inspection and duplication.

65.5-3. *Improvements.* A ~~lease~~Lease ~~shall must~~ set out requirements related to ~~improvements~~Improvements, including:

- (a) whether ~~improvements~~Improvements may be constructed;
- (b) ownership of ~~improvements~~Improvements;
- (c) responsibility for constructing, operating, maintaining and managing ~~improvements~~Improvements;
- (d) whether development plans and/or construction management schedules must be submitted to Land Management for approval prior to beginning construction of any Improvements;
- ~~(e)~~ removal of ~~improvements~~Improvements;
- ~~(e)~~ whether a ~~lessee~~Lessee may develop equity in ~~improvements~~Improvements and sell its interest in the ~~lease~~Lease based on the equity; and
- ~~(f)~~ the ~~lessor's~~Lessor's right of first refusal to purchase the ~~lessee's~~Lessee's interest, if any.

65.5-4. *Obtaining a Lease Document.* Lease ~~documents~~Documents ~~shall~~must be by written consent of the ~~lessor~~Lessor and the ~~lessee~~Lessee, unless otherwise provided herein and shall contain the effective date of the ~~lease~~Lease documentDocument.

(a) The ~~lease~~Lease may authorize ~~subleases~~Subleases only upon approval and execution from Land Management. This in no way relieves the parties from carrying out their duties under the ~~lease~~Lease.

(b) The ~~lease~~Lease may authorize ~~encumbrances, including leasehold~~Leasehold mortgagesMortgages, on the leasehold interest for the purpose of financing to develop and improve the premises. ~~Approval of the encumbrance by~~ Land Management ~~is required~~must approve the Leasehold Mortgage.

(c) The ~~lease~~Lease ~~shall~~may not authorize mortgages that encumber title to Tribal ~~land~~Land.

65.5-5. *Payments.* For any ~~lease~~Lease requiring payments to be made to the ~~lessor~~Lessor, the ~~lessor~~Lessor shall provide the Secretary with such documentation of the ~~lease~~Lease payments as the Secretary may request to enable the Secretary to discharge the trust responsibility of the United States.

65.5-6. *Environmental and Cultural Reviews.* Land Management ~~shall~~may not approve a ~~lease~~Lease or ~~lease~~Lease documentDocument until an ~~environmental~~Environmental reviewReview and a ~~cultural~~Cultural reviewReview, as required under section 65.9, have been completed. Leases approved and executed in violation of this section ~~shall be~~are null and void.

65.5-7. *Documentation.* The following are required for a party to enter into a ~~lease~~Lease:

(a) a signed ~~lease~~Lease; and

(b) ~~any~~ reports, surveys and site assessments needed to comply with Tribal environmental, cultural resource and land use requirements.

65.6. Residential Leases

65.6-1. In addition to the requirements that apply to all ~~leases~~Leases under section 65.5, the requirements of this section ~~shall~~also apply to residential ~~leases~~Leases.

65.6-2. A residential ~~lease~~Lease ~~shall~~must be entered into for the ~~lease~~Lease of land suited or used for the construction, ~~improvement~~Improvement, and/or maintenance of a dwelling and related structures on the premises, and otherwise to use or occupy said premises for residential purposes.

65.6-3. *Duration.* Residential ~~leases~~Leases ~~shall~~may not exceed seventy-five (75) years.

65.7. Agricultural Leases

65.7-1. In addition to the requirements that apply to all ~~leases~~Leases under section 65.5, the requirements of this section ~~shall~~also apply to agricultural ~~leases~~Leases.

65.7-2. An agricultural ~~lease~~Lease ~~shall~~must be entered into for the ~~lease~~Lease of land suited or used for the production of crops, livestock or other agricultural products, or land suited or used for a business that supports the surrounding agricultural community.

65.7-3. *Duration and Renewal.* Agricultural ~~leases~~Leases ~~shall~~may not exceed twenty-five (25) years, except that any such ~~lease~~Lease may include an option to renew for up to two (2) additional terms, which may not exceed twenty-five (25) years each.

65.7-4. *Land Management.* Agricultural ~~leases~~Leases ~~shall~~ require the ~~lessee~~Lessee to manage land in accordance with the conservation plan and any agricultural resource management plan and/or appropriate stipulations developed by the Tribe.

65.8. Business Leases

65.8-1. In addition to the requirements that apply to all ~~leases~~Leases under section 65.5, the requirements of this section ~~shall~~ also apply to business ~~leases~~Leases.

65.8-2. A business ~~lease~~Lease ~~shall~~must be entered into for the ~~lease~~Lease of land suited or used for business purposes including retail, office, manufacturing, storage, or other business purposes; and public purposes, including religious, educational, recreational, cultural, or other public purposes.

65.8-3. *Duration and Renewal.* Business ~~leases~~Leases ~~shall~~may not exceed twenty-five (25) years, except that any such ~~lease~~Lease may include an option to renew for up to two (2) additional terms, which may not exceed twenty-five (25) years each.

65.8-4. *Supporting Documents.* All applicants for business site ~~leases~~Leases shall submit the following documents to Land Management:

- (a) financial statement;
- (b) site survey and legal description, if applicable;
- (c) other documents as may be required by any business site ~~leasing~~Leasing management plan developed by the Tribe.

65.8-5. *Appraisal, Local Studies.*

(a) The fair annual ~~lease~~Lease value ~~shall~~must be determined by an appraisal or equivalent procedure performed by Land Management utilizing the following data: ~~improvement~~Improvement cost, replacement cost, earning capacity, and sales and ~~lease~~Lease data of comparable sites. An appraisal log reporting the methods of appraisal and value of the Tribal ~~land~~Land ~~shall~~must be attached to every business site ~~lease~~Lease.

(b) Alternatively, the fair annual ~~lease~~Lease value ~~shall~~must be determined by an appraisal performed by a licensed appraiser utilizing the Uniform Standards of Professional Appraisal Practice or another commonly accepted method of appraisal. An appraisal log describing the method of appraisal and value of the Tribal ~~land~~Land ~~shall~~must be attached to every business site ~~lease~~Lease.

65.8-6. *Fair Annual Lease Value.*

(a) No ~~lease~~Lease ~~shall~~may be approved for less than the present fair annual ~~lease~~Lease value as set forth in the appraisal, except as follows:

- (1) The ~~lessee~~Lessee is in the development period;
- (2) Land Management is providing an incentive for businesses to locate on Tribal ~~land~~Land, and must provide ~~lease~~Lease concessions, ~~lease~~Lease ~~improvement~~Improvement credits, and ~~lease~~Lease abatements to attract such business; or
- (3) Land Management determines such action is in the best interest of the Tribe.

(b) A ~~lease~~Lease may:

- (1) Be structured at a flat ~~lease~~Lease rate; and/or
- (2) Be structured at a flat ~~lease~~Lease rate plus a percentage of gross receipts, if the ~~lessee~~Lessee is a business located in a shopping center, or the ~~lessee~~Lessee generates over one million dollars (\$1,000,000.00) annually in gross receipts; and/or
- (3) Be structured based on a percentage of gross receipts, or based on a market indicator; and/or
- (4) Be structured to allow for ~~lease~~Lease rate adjustments. The ~~lease~~Lease ~~shall~~must specify how adjustments will be made, who will make such adjustments, when adjustments ~~will~~ go into effect, and how disputes ~~shall~~may be resolved; and/or
- (5) Be amended to allow for ~~lease~~Lease rate adjustments; and/or

(6) -Provide for periodic review. Such review ~~shall~~must give consideration to the economic conditions, exclusive of ~~improvement~~Improvement or development required by the contract or the contribution value of such ~~improvements~~Improvements.

(c) Land Management shall keep written records of the basis used in determining the fair annual ~~lease~~Lease value, as well as the basis for adjustments. These records ~~shall~~must be presented to the ~~lessee~~Lessee and included in any ~~lease~~Lease file.

65.8-7. *Performance Bond*. If a ~~performance~~Performance ~~bond~~Bond is required under a business ~~lease~~Lease, a ~~performance~~Performance ~~bond~~Bond ~~shall~~must be obtained by the ~~lessee~~Lessee in an amount that reasonably assures performance on the ~~lease~~Lease. Such bond ~~shall~~be must be for the purpose of guaranteeing the following:

(a) The annual ~~lease~~Lease payment;

(b) The estimated development cost of ~~improvements~~Improvements; and

(c) Any additional amount necessary to ensure compliance with the ~~lease~~Lease.

65.9. Environmental and Cultural Reviews

65.9-1. *Applicability*. Land Management ~~shall~~may not consider approving a ~~lease~~Lease or ~~lease~~Lease ~~document~~Document until an ~~environmental~~Environmental ~~review~~Review and a ~~cultural~~Cultural ~~review~~Review have been completed.

65.9-2. *Environmental Reviews*. An ~~environmental~~Environmental ~~review~~Review ~~shall~~must be conducted by or at the request of the Environmental, Health and Safety Division on all proposed ~~leases~~Leases and ~~lease~~Lease ~~documents~~Documents. The ~~environmental~~Environmental ~~review~~Review ~~shall~~must be conducted in accordance with the process established under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq, to evaluate environmental effects of federal undertakings.

65.9-3. *Cultural Reviews*. A ~~cultural~~Cultural ~~review~~Review ~~shall~~must be conducted by or at the request of the Cultural Heritage Department on all proposed ~~leases~~Leases and ~~lease~~Lease ~~documents~~Documents. The ~~cultural~~Cultural ~~review~~Review ~~shall~~must be conducted in accordance with the permit review requirements for undertakings established in the Protection and Management of Archeological & Historical Resources law.

65.9-4. *Environmental and Cultural Review Completion*. The Environmental, Health and Safety Division shall forward a completed ~~environmental~~Environmental ~~review~~Review and the ~~cultural~~Cultural ~~review~~Review to Land Management for consideration in the approval or denial of a ~~lease~~Lease or ~~lease~~Lease ~~document~~Document.

(a) Before approving a ~~lease~~Lease or ~~lease~~Lease ~~document~~Document, Land Management may require any reasonable actions, as recommended within the ~~environmental~~Environmental ~~review~~Review or ~~cultural~~Cultural ~~review~~Review, be completed.

(b) The Environmental, Health and Safety Division shall prepare an updated ~~environmental~~Environmental ~~review~~Review and the Cultural Heritage Department shall prepare an updated ~~cultural~~Cultural ~~review~~Review upon completion of any reasonable actions.

65.10. Lease Management

65.10-1. *Management Plan*. Land Management shall:

(a) manage existing ~~leases~~Leases as well as those executed pursuant to this Law; and

(b) institute a ~~leasing~~Leasing management plan that employs sound real estate management practices, and addresses accounting, collections, monitoring, enforcement,

relief, and remedies.

65.10-2. *Accounting.* Land Management shall implement an accounting system that generates invoices, accounts for payments, and dates of when rate adjustments should be made. Nothing in this section ~~shall~~may be construed to absolve the ~~lessee~~Lessee of its duties under a ~~lease~~Lease.

65.10-3. *Recording Leases and Lease Documents.* Land Management shall provide all ~~leases and lease~~Lease documents~~Documents~~ of Tribal ~~trust~~Trust ~~land~~Land, except residential ~~subleases~~Subleases and ~~encumbrances~~Leasehold Mortgages, to the Bureau of Indian Affairs for ~~encoding and to be forwarded to~~recording in the Land Titles and Records Office. All ~~leases and lease~~Lease documents~~Documents~~ of Tribal ~~land~~Land ~~shall~~must also be recorded in the Tribe's Register of Deeds. Land Management shall also distribute a copy of the recorded ~~lease~~Lease documents~~Documents~~ to the ~~lessee~~Lessee.

65.10-4. *Ownership of Records.* Records of activities taken pursuant to this Law with respect to Tribal ~~trust~~Trust ~~land~~Land are the property of the United States and the Tribe. Records compiled, developed or received by the ~~lessor~~Lessor in the course of business with the Secretary are the property of the Tribe.

65.10-5. *Administrative Fees.* Land Management may charge administrative fees for costs associated with issuing a ~~lease~~Lease or ~~lease~~Lease documentDocument, or conducting any other administrative transaction.

65.11. Enforcement

65.11-1. Land Management ~~shall have all~~is delegated all powers necessary and proper to enforce this Law and the ~~lease~~Lease terms. This includes the power to enter the premises, assess penalties, assess late payments and cancel ~~leases~~Leases. Land Management may request the Oneida Law Office assist in enforcement of this Law and ~~leases~~Leases.

65.11-2. *Harmful or Threatening Activities.* If a ~~lessee~~Lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon, Land Management or another interested party may take appropriate emergency action, which ~~may~~includes cancelling the ~~lease~~Lease and/or securing judicial relief.

65.11-3. *Holdovers and Trespass.* If a ~~lessee~~Lessee remains in possession of a property after the expiration or cancellation of a ~~lease~~Lease, or a person occupies a property without Land Management's approval, Land Management shall take action to recover possession of the property; and/or pursue additional remedies, such as damages, if applicable.

65.11-4. *Defaults.* If Land Management determines a ~~lessee~~Lessee is in default, Land Management shall take action to have the ~~lessee~~Lessee cure the default or, if the default is not cured, cancel the ~~lease~~Lease.

65.11-5. *Penalties.* Unless the ~~lease~~Lease provides otherwise, interest charges and late payment penalties ~~shall~~apply in the absence of any specific notice to the ~~lessee~~Lessee from Land Management, and the failure to pay such amounts ~~shall~~must be treated as a breach of the ~~lease~~Lease.

65.12. Appeals

65.12-1. The ~~lessee~~Lessee or an interested party may appeal a determination of Land Management ~~with the Oneida Judiciary Court of Appeals~~in accordance with the Judiciary law ~~and~~any applicable rules of procedure.

End.

Adopted-BC-05-13-15-C, pending BIA approval



Legislative Operating Committee

November 4, 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.

10/21/15 LOC: Motion by David P. Jordan to accept the memorandum as FYI and to defer the Per Capita Law Amendments to the sponsor to continue to work with the Trust/Enrollment Committee and to bring a draft back on November 4, 2015; seconded by Fawn Billie. Motion carried unanimously.

10/23/15: Work meeting held, attendees include: Cheryl Skolaski, David P. Jordan, Caroyl Long, Douglass McIntyre, Bonnie Pigman, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore.

10/26/15: Work meeting held, attendees include: Caroyl Long, Bonnie Pigman, Misty Cannon, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore, Susan White, Krystal John.

- **Next Steps:** Review the draft of the Per Capita Law Amendments with discussion of whether the contents of this Law that overlapped with the Per Capita Trust Agreement should be removed. Provide feedback, if any, and forward for the required analyses.

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Chapter 9
PER CAPITA
Shakotiwí? Stawihé Olihwa'ke
Issues concerning where they give the money

9.1. Purpose and Policy
9.2. Adoption, Amendment, Repeal
9.3. Definitions
9.4. General

9.5. Per Capita Payments
9.6. Minors and Legally Incompetent Adults
9.7. Payments

9.1. Purpose and Policy

9.1-1. *Purpose.* The Purpose of this ~~law~~Law is:

(a) To specify the procedure to be followed in the event that per capita payments are ~~issued~~distributed by the Tribe; and

(b) To clearly state the responsibilities of the various Tribal entities in the distribution or maintenance of any such per capita payments.

9.1-2. *Policy.* It is the ~~Policy~~policy of the ~~Oneida Tribe of Indians of Wisconsin~~ to have a consistent methodology for ~~issuance~~distribution of per capita payments, including payments derived from Gaming Revenues and regulated by ~~the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.~~IGRA.

9.2. Adoption, Amendment, Repeal

9.2-1. This ~~law~~Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D, ~~and~~ _____.

9.2-2. This ~~law~~Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

9.2-3. 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.

9.2-4. 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.

9.2-5. This ~~law~~Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

9.3. Definitions

9.3-1. This section ~~shall govern~~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) "Adult" ~~shall mean those~~means a Tribal ~~members~~Member who ~~are~~is at least eighteen (18) years ~~old~~of age on or before September 1st of a given year.

(b) "Arrears" ~~shall mean~~means the amount of money a ~~person~~Tribal Member has not paid pursuant to the most recent child support court order against him or her.

(c) "Court of competent jurisdiction" ~~shall mean~~means the Tribe's judicial system which includes the Family Court, Trial Court and/or Appellate Court or another court which has the jurisdiction to hear and determine a particular legal proceeding.

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(d) “Day” ~~shall mean~~means calendar days, unless otherwise specifically stated.

(e) “~~Direct Deposit~~” means the electronic distribution of per capita funds.

(f) “Distribution” means the transfer of per capita funds to Tribal Members.

(g) “Elder” ~~shall mean those~~means a Tribal member~~Member~~ who ~~are age~~is at least sixty-two (62) years or over, or 65 years or over, of age as of December 31st of a given year.

~~(f)~~“(h) “Entity” means a court, department, board, committee or commission of the Tribe.

(i) “IGRA” means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.

(j) “~~Legally incompetent adult~~” ~~shall mean~~Incompetent Adult” means a Tribal member~~Member who is~~ at least eighteen (18) years ~~old who~~of age and has been declared incompetent by a court of competent jurisdiction ~~because he or she is temporarily or permanently impaired to the extent that the person lacks sufficient understanding~~pursuant to make or communicate responsible personal decisionsapplicable law.

(g) “Minor” ~~shall mean~~(k) “Majority Age Beneficiary” means a Tribal member~~Member~~ who has ~~not yet reached the age of~~eighteen (18) years of age by September 1st and is eligible to claim a trust account for the first time in the distribution year.

(l) “Minor Beneficiary” means a Tribal Member who is less than eighteen (18) years ~~by September 1st of a given year~~age.

~~(h) “Minors trust” shall mean that~~m) “Per Capita Payment” means the amount authorized by the General Tribal Council to be distributed to Tribal Members.

(n) “Pooled Account” means the account set up by the General Tribal Council or ~~those~~ accounts established by the TrustOneida Business Committee, through resolution, for the ~~benefit~~purpose of Tribal members ~~who are minors~~managing undistributed per capita funds pursuant to Tribal law.

~~(i)~~“(o) “Tribal” or “Tribe” ~~shall mean~~means the Oneida Tribe of Indians of Wisconsin.

~~(j)~~“(p) “Tribal entity” ~~shall mean a department, board, committee, or commission~~Member” means an individual who is an enrolled member of the Tribe.

~~(k)~~“(q) “Trust Account” means an account” ~~shall mean that account or those accounts~~(s) established by the Trust/Enrollment Committee for the benefitpurpose of Tribal members ~~who are identified as needing trust accounts,~~maintaining Per Capita funds for ~~example,~~ minors~~persons pursuant to the Tribal revenue allocation plan, which includes, but is not limited to, Minor Beneficiaries and legally incompetent adults~~Legally Incompetent Adults.

~~(l)~~“(r) “Trust/Enrollments Committee” ~~shall mean~~means that body designated by the General Tribal Council to manage the trust funds for the ~~Oneida~~-Tribe on behalf of ~~Indians of Wisconsin and their Tribal membership~~members, and which is also responsible for the enrollment records of the ~~Oneida~~-Tribe. ~~This Committee is also known as~~

(s) “Trust Fund Accountant” means the Oneida~~third party professionals hired by the Trust/Enrollment Committee~~ to oversee Trust Accounts established pursuant to the this Law.

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9.4. General

9.4-1. This ~~section shall set~~ Section sets forth the responsibilities delegated under this ~~law~~ Law.

9.4-2. *Supersedes.* This ~~law shall supersede~~ Law supersedes any contradictory language ~~contained~~ in any other ~~per capita payment~~ Per Capita Payment plan.

9.4-3. *Budgetary Limitations.* This ~~law shall~~ Law may not be construed as mandating a ~~per capita payment~~. ~~Per capita payments shall~~ Per Capita Payment; Per Capita Payments may only be issued ~~only~~ at the direction of the General Tribal Council through adoption of a resolution.

9.4-4. ~~Oneida Trust/~~ Enrollment Committee. The Trust/Enrollment Committee shall ~~be~~ delegated the following responsibilities in regards to per capita activities. ~~Any:~~

(a) ~~Manage Trust Accounts related to Per Capita Payments with fiduciary~~ responsibility not specifically identified, and reasonably related to the activities identified herein, shall be considered a Trust Committee responsibility.;

(a) ~~Fiduciary responsibility to manage trust accounts related to per capita payments.~~

(b) ~~Maintenance of~~ Maintain the Tribe's membership rolls ~~in such a manner as to so that the Trust/Enrollment Department can~~ accurately identify ~~to whom per capita payments will be made.~~

(c) ~~Holding administrative hearings regarding challenges to payment or non payment of per capita payments.~~

(d) ~~Development of which Tribal Allocation Plans necessary to make per capita payments.~~ Member's are eligible for Distribution;

(d) Develop Tribal revenue allocation plans required by Tribal laws, policies or rules in order to Distribute Per Capita Payments, provided that said plans must be approved by the Oneida Business Committee;

(e) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this sub-section; and

(f) Enter into a Trust Agreement and Memorandum of Agreement with the Oneida Business Committee.

9.4-5. *Oneida Business Committee.* The Oneida Business Committee shall ~~be identified as having the following responsibilities regarding per capita activities. Actions reasonably related to activities defined herein, shall be considered an Oneida Business Committee activity.;~~

(a) ~~Identification of~~ Identify and allocate funds available for ~~allocation for per capita payments.~~ Per Capita Payments;

(b) ~~Approval of~~ Forward approved Tribal Allocation Plan Tribal revenue allocation plans and forwarding the Tribal Allocation Plan for approval by to the Bureau of Indian Affairs.;

(c) ~~Transfer of funds for to the trust account to the Trust Committee in a timely manner and appropriate Entity(ies) pursuant to Tribal law~~ within a reasonable time frame.;

(d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this in this sub-section; and

(e) Enter into a Trust Agreement and Memorandum of Agreement with the Trust/Enrollment Committee.

9.4-6. *Attachments.* ~~Per capita payments~~ Capita Payments are considered benefits offered by the Tribe to ~~the membership.~~ Tribal Members. All ~~per capita payments~~ Per Capita Payments, except

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123 ~~payments~~Distributions to or from a ~~trust account~~Trust Account for a Minor Beneficiary, are
 124 subject to attachment prior to ~~distribution~~Distribution in accordance with this ~~section~~Section and
 125 shall follow the timelines established by the Trust/Enrollment Committee.

126 (a) Per ~~capita~~Capita Payment attachments may only be ordered by the Tribe's judicial
 127 system for the following purposes, and in the following order:

128 (1) Child support ~~arrears~~Arrears ordered by a ~~court~~Court of competent
 129 jurisdiction. After child support Arrears are fully satisfied, any remaining Per
 130 Capita Payments must be used for the payment of debt owed to an Entity.

131 (A) If a Tribal Member owes Arrears in more than one (1) child support
 132 order, the per capita must be equally divided based on the number of court
 133 orders under which Arrears are owed.

134 (2) Debt owed to a ~~Tribal entity~~an Entity that is past due. After child support
 135 Arrears and debt owed to an Entity have been fully satisfied, any remaining Per
 136 Capita Payment must be used for the payment of a federal tax levy.

137 (A) "Debt owed to a ~~Tribal entity~~an Entity" includes any money owed to
 138 a ~~Tribal entity~~an Entity and any fines that have been issued by a ~~Tribal~~
 139 ~~entity~~an Entity.

140 (B) If a Tribal Member owes debt to more than one (1) Entity, the per
 141 capita shall be equally divided based on the number of Entities that are
 142 owed debt.

143 (3) A federal tax levy.

144 (b) ~~After child support arrears are fully satisfied, any remaining per capita shall be used~~
 145 ~~for~~ If the payment amount of debt owed to a Tribal entity.

146 (1) ~~If a Tribal member owes arrears in more than one (1) child support order, the~~
 147 ~~per capita shall be equally divided based on~~Per Capita Payment exceeds the
 148 ~~number~~amount of court orders under which arrears are owed.

149 (2) ~~If a Tribal member owes debt to more than one (1) Tribal entity, the per~~
 150 ~~capita shall be equally divided based on~~the attachment, the number of entities that
 151 ~~are owed debt.~~

152 remaining unclaimed balance must remain available as identified in 9.5-3(c) ~~After child~~
 153 ~~support arrears and debt owed to a Tribal entity have been fully satisfied, any the~~
 154 ~~remaining per capita shall be used for the payment of a federal tax levy.~~refused balance,
 155 if any, must be deposited in accordance with 9.5-3(e)(2).

156 (d~~c~~) Child Support Attachments. All requests for attachments for child support ~~arrears~~
 157 ~~shall~~Arrears must be submitted to the ~~Oneida Nation~~Tribe's Child Support Agency. The
 158 claimant or a representative of the entity designated to receive the ~~arrears~~Arrears may
 159 request the attachment.

160 (1) ~~Attachment requests for child support arrears shall be made before July 1st to~~
 161 ~~attach the annual per capita payment. Attachment requests for child support~~
 162 ~~arrears for all other payments shall be made far enough in advance for the~~
 163 ~~requirements of this law to be met and the order of determination on the~~
 164 ~~attachment of the payment from the Tribe's judicial system to be received by the~~
 165 ~~Enrollment Department at least thirty (30) days before the payment date.~~

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(2)(1) After receiving an initial attachment request for child support arrears Arrears, the Oneida Nation Tribe's Child Support Agency shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal ~~members~~ Members whose ~~per capita payment~~ Per Capita Payment will be attached for child support arrears Arrears.

(A) ~~When subsequent requests for attachment are received, the Oneida Nation Child Support Agency shall proceed in accordance with 9.4-6(d)(5).~~

(3) ~~The one-time notice shall inform the Tribal member of the following:~~

(A) ~~A request to attach the Tribal member's per capita payment for child support arrears has been received;~~

(B) ~~He or she has ten (10) business days from receipt of the notice to return the completed voluntary federal income tax withholding request form if he or she wants federal income tax withheld from the per capita payment before the attachment is applied; and~~

(C) ~~The Tribal member's future per capita payments will be attached, upon request from a claimant or a representative of the entity designated to receive the arrears, until the child support arrears are satisfied.~~

(4) ~~A Tribal member whose per capita payment will be attached for child support arrears has until ten (10) business days after receiving the one-time notice of attachment to submit a request to the Oneida Nation Child Support Agency that federal income tax be withheld from his or her per capita payment.~~

(A) ~~A request received to withhold federal income tax shall remain in effect until the child support arrears have been satisfied or the Tribal member provides written notice to the Oneida Nation Child Support Agency stating otherwise, whichever occurs first.~~

(B) ~~Without a request to withhold federal income tax from the per capita payment as required under this law, federal income tax shall not be withheld from the current or future per capita payments that are attached for child support arrears unless the Tribal member provides written notice to the Oneida Nation Child Support Agency stating otherwise.~~

(C) ~~A request to change a Tribal member's voluntary federal income tax withholding status that is received before July 1st shall be applied to that year's annual per capita payment. Requests to change a Tribal member's voluntary federal income tax withholding status received on or after July 1st shall be applied to the next per capita payment made, whether it is an annual or prior payment.~~

(5) ~~The Oneida Nation~~ (2) The Tribe's Child Support Agency shall prepare a certified accounting of all attachment requests and forward the accounting to the Tribe's judicial system. ~~If the attachment request is for the annual per capita payment, the certified accounting shall be forwarded to the Tribe's judicial system before July 31st of the year in which the payment is scheduled to be made.~~

(6) ~~The Tribe's judicial system shall issue~~ 3) In order to attach a Tribal Member's

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Per Capita Payment to collect child support Arrears, the Trust/Enrollment Committee must have received an order of determination ~~and forward it to the Enrollment Department:~~

(A) ~~before August 1st for action in~~from the next processed annual per capita payment; ~~or~~ Tribe's judicial system.

(B) ~~at least thirty (30) days before the payment date for action in the next processed prior payment distribution.~~

~~(7)~~(4) After the child support ~~arrears~~Arrears have been satisfied, if an attachment request is submitted for the same Tribal ~~member's per capita~~Member's Per Capita Payment based on new child support ~~arrears~~Arrears, the ~~Oneida Nation~~Tribe's Child Support Agency shall issue another one-time notice and federal income tax withholding form in accordance with 9.4-6(d)~~(21)~~(21) above.

~~(ed)~~ *Tribal Debt and Federal Tax Levy Attachments.* All requests for attachments for debt owed to ~~a Tribal entity~~an Entity after receiving a judgment from a Court of competent jurisdiction or to the federal government for a federal tax levy ~~shall~~must be submitted to the Tribe's judicial system. The claimant or a representative of the entity designated to receive the claim may request the attachment.

~~(1) Attachment requests for debt owed to a Tribal entity or to the federal government for a federal tax levy shall be made before July 1st to attach the annual per capita payment. Attachment requests for debt owed to a Tribal entity or to the federal government for a federal tax levy for all other payments shall be made far enough in advance for the requirements of this law to be met and the order of determination on the attachment of the payment from the Tribe's judicial system to be received by the Enrollment Department at least thirty (30) days before the payment date.~~

~~(2) A Tribal member whose annual per capita payment will be attached for Tribal debt or a federal tax levy has until September 1st to request federal income tax be withheld from his or her per capita payment. A Tribal member whose prior per capita payment will be attached for Tribal debt or a federal tax levy has until the order of determination on the attachment of the payment from the Tribe's judicial system is issued to request federal income tax be withheld from his or her per capita payment.~~

~~(3) The Tribe's judicial system shall issue an order of determination and forward it to the Enrollment Department:~~

~~(A) before August 1st for action in the next processed annual per capita payment; or~~

~~(B) at least thirty (30) days before the payment date for action in the next processed prior payment distribution.~~

~~(f)~~(1) Upon recognizing a need for attachment of a Per Capita Payment to collect a Tribal debt or a federal tax levy, the entity shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal Members whose Per Capita Payment will be so attached.

(2) The entity shall prepare a certified accounting of all attachment requests and

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forward the accounting to the Tribe's judicial system.

(3) In order to attach a Tribal Member's Per Capita Payment to collect a Tribal debt or a federal tax levy, the Trust/Enrollment Committee must have received an order of determination from the Tribe's judicial system.

(e) The Tribe's judicial system may order attachments against ~~per capita payments~~Per Capita Payments of Tribal ~~members~~Members who do not return a notarized membership payment form as required under 9.5-3(b) or who refuse a payment under 9.5-3(~~fe~~). If the amount of the ~~per capita payment~~Per Capita Payment exceeds the amount of the attachment, the remaining unclaimed balance ~~shall~~must remain available as identified in 9.5-3(c) and the remaining refused balance ~~shall~~must be deposited in accordance with 9.5-3(~~fe~~)(2).

9.4-7. *Federal Income Tax Withholding.*

(a) *Voluntary.* ~~If a voluntary~~The Trust/Enrollment Department shall withhold federal income ~~tax withholding~~taxes from a Distribution only when the following applies:

(1) Tribal Member's whose Per Capita Payment is not subject to attachment in accordance with Section 9.4-6 may voluntarily request ~~form has been received under 9.4-6(d)(4) or 9.4-6(e)(2), to have~~ federal income tax ~~shall be withheld from per capita payments~~withheld, provided that such requests must be received in accordance with the applicable distribution dates.

(2) Tribal Member's whose Per Capita Payment is subject to attachment in accordance with Section 9.4-6 may voluntarily request to have federal income tax withheld, provided that such requests must be received in accordance with the deadlines established by entity pursuing the attachment. Federal income tax withholding requests that are timely received must be applied to the applicable Distribution before any attachments are applied.

(b) *Mandatory.* A ~~member~~Tribal Member who meets all of the requirements of this ~~law~~Law, but refuses to provide the ~~Trust/Enrollment Department~~ with his or her social security number ~~shall have~~ or individual tax identification number is subject to mandatory federal income tax ~~withheld~~withholding from his or her ~~per capita payment~~Per Capita Payment, as required by federal law.

(c) ~~Federal income tax withholding, whether voluntary or mandatory, shall be applied to the per capita amount before any attachments are applied.~~

(d) ~~IRS Publication 15a. In instances where federal income tax is withheld from a per capita payment,~~The Trust/Enrollment Department shall comply with the most recent edition of IRS Publication 15a ~~shall be complied with.~~

9.5. **Distributions**

9.5-1. *General.* This section sets forth the required processes for Distribution of Per Capita Payments.

~~9.5-1. General.~~ ~~This section shall set forth the processes to follow when a per capita payment is issued.~~

9.5-2. *Trust Committee.* ~~The Trust Committee is responsible for the protection and preservation of per capita payment funds for minors. As part of that responsibility, the Trust Committee is~~

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responsible for the completion and issuance of any necessary reports to the minors. The Trust Committee shall develop standard reporting procedures which establish valuation dates, frequency of reports and identify data critical to the completion of reports. Such reporting responsibilities may be delegated to duly selected vendors.

9.5.3.—*Deadlines.* The following deadlines shall apply in regards to the annual ~~per capita payment~~Per Capita Payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline shall be construed to be the close of business on the following business day. For any additional ~~per capita payments~~Per Capita Payments, the Trust/Enrollment Committee may establish dates and deadlines associated with those payments, as needed.

(a) *Eligibility.* Eligibility falls into the following categories:

(1) *Filing Deadlines.* An individual who is not a Tribal ~~member~~Member shall file a new enrollment application no later than the close of business on January 31st in order to be considered eligible for the following ~~per capita payment~~Per Capita Payment.

(2A) *Enrollment Deadlines.* An individual is considered enrolled for the purposes of a ~~per capita payment~~Per Capita Payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by March 31st.

(3B) A newly enrolled Tribal Members is eligible only for Per Capita Payments authorized to be Distributed following the effective date of his or enrollment; he or she is not eligible to receive any Per Capita Payments that were Distributed prior to the effective date of his or her enrollment.

(2) *Dual Enrollment.* A ~~member~~Tribal Member who is dually enrolled with the Tribe and another Indian ~~Tribetribes~~ is not eligible for a ~~per capita payment~~Per Capita Payment unless his or her relinquishment from the other tribe has been processed and written verification that the member is no longer enrolled with that tribe has been received by the Trust/Enrollment Department by September 1st.

(b) ~~Membership Payment~~Distribution Documents.

(1) ~~Adult Distribution Form. The and Instructions.~~

(A) Prior to July 1st of the year the Trust/Enrollment Department shall mail membership payment Membership Distribution forms no later than July 1st. Each adult Tribal member and instructions to those who do not have a Direct Deposit record on file with the Trust/Enrollment Department.

(i) Adults shall complete, notarize and return a notarized membership payment Membership Distribution form to the Trust/Enrollment Department by close of business on or before September 1st in order to be eligible for a per capita payment Per Capita Distribution.

(e)—(B) Prior to July 1st of the year the Trust/Enrollment Department shall mail receipts to those who have a Direct Deposit record on file with the Trust/Enrollment Department. Adults receiving the receipts are not required to submit a Membership Distribution form unless an Adult

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wishes to remove his or her Direct Deposit record.

(i) An Adult wishing to remove his or her Direct Deposit record must complete, notarize and return all applicable forms to the Trust/Enrollment Department by close of business on or before the Distribution Form deadline.

(C) The Trust/Enrollment Department shall make available late Membership Distribution forms. The acceptance of these forms must comply with section 9.5-2(e).

(2) Majority Age Beneficiary Distribution Form and Instructions.

(A) Prior to April 1st of the year the Trust/Enrollment Department shall mail Trust Account forms and instructions to eligible Majority Age Beneficiaries for Trust Account Distributions.

(B) The Trust/Enrollment Department shall make available late Trust Account forms. The acceptance of these forms must be processed in accordance with Article III of the Per Capita Trust Agreement.

(c) Annual Distribution Date. All annual Per Capita Payments must be Distributed on or before September 30th.

(d) Direct Deposit. Adults and Majority Age Beneficiaries may submit a Direct Deposit form at any time. All Direct Deposit forms must be received by the applicable Per Capita or Trust Account Distribution Form deadline in order to be applied to a Distribution.

(1) Any fees associated with reissuing a Distribution must be deducted from the reissued Distribution. (Fees may include, but are not limited to, stop payment and Direct Deposit bank rejection fees).

(2) The Tribe may waive fees if a check is reissued due to an error on their behalf. A reissue made due to an error on the Tribe's behalf may not count against the Tribal Member as identified in 9.5-2 (e)(2)(A).

(e) Request for a Prior Per Capita Payment.

(1) Unclaimed Payment. A Tribal Members must submit a request for a prior payment Adult or Elder Per Capita Payment, for which a member the Tribal Member was eligible, but did was not claim, shall be filed claimed or fully attached, by September 1st of the next year. For example, if a payment's original distribution Distribution date is in 2000, then the deadline is September 1, 2001. If a request is not received by the deadline date, the payment will expire and the funds shall must be deposited in a pooled account Pooled Account in accordance with 9.5-65.

(A) Prior Per Capita Payments requested by an eligible Adult or Elder must be distributed as follows:

(i) By March 31st, if the late Membership payment form is received after September 1st, but on or before March 1st.

(ii) By September 30th, if the late Membership payment form is received after March 1st, but on or before September 1st.

(B) Prior Per Capita Payments requested by a Majority Age Beneficiary must be distributed in accordance with Article III of the Per Capita Trust

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Agreement.

(2) ~~Un-cashed Payment.~~ A Distribution of Unredeemed Checks. Tribal Members must submit a request for a an Adult or Majority Age Beneficiary's prior paymentDistribution, for which a memberTribal Member already claimed, but did not redeem, ~~shall be filed~~ by September 1st of the next year. For example, if a payment'sDistribution's original distributionissue date is in 2000, then the deadline is September 1, 2001.

~~(A payment)~~ An Adult, Beneficiary or Majority Age Beneficiary's Distribution may only be reissued once. After the paymentDistribution is reissued the memberTribal Member has ninety (90) days to redeem it or the paymentDistribution will expire and willmay not be reissued. TheExpired funds ~~shall then~~ must be deposited in a pooled-accountPooled Account in accordance with 9.5-65.

~~(d) Annual Payments.~~ Annual per capita payments shall be distributed on or before September 30th. First time elder per capita payments for those Tribal members who turn sixty two (62) or sixty five (65) after September 30th, and through December 31st, shall be distributed at the end of the month of the elder's birth date.

(B) Any fees associated with reissuing a Distribution must be deducted from the reissued Distribution. (Fees may include but are not limited to stop payment and Direct Deposit bank rejection fees).

(i) The Tribe may waive fees if a check is reissued due to an error on their behalf. A reissue made due to an error on the Tribe's behalf may not count against the Tribal Member as identified in 9.5-2 (e) Prior Payments.

~~(1) Prior Payments: Elders.~~ Prior payments requested by eligible elders on or before the twentieth (20th) day of the month shall be distributed by the last business day of that month. Prior payments requested by elders after the twentieth (20th) day of the month shall be distributed by the last business day of the next month.

~~(2) Prior Payments: Non-Elders.~~ Prior payments requested by eligible Tribal members who are not elders shall be distributed as follows:

~~(A) By March 31st, if the prior payment request is received after September 1st, but on or before March 1st.~~

~~(B) By September 30th, if the prior payment request is received after March 1st, but on or before September 1st.~~

(2)(A). (f) Refusal of Payments. A Tribal member Distributions. An Adult or Majority Age Beneficiary may refuse any per capita paymentDistribution due to him or her, including a trust account paymentTrust Account Distribution, by completing a refusal form ~~developed by the~~ available with Trust/ Enrollment Department. However, if the Tribe's judicial system has approved thean attachment of the Tribal member's paymentan Adult Distribution, only the remaining portion of the per capita paymentDistribution, if any, may be refused. Majority Age Beneficiary Distributions are not attachable.

(1) Upon submitting the refusal form to the Trust/ Enrollment Department, the Tribal memberAdult or Majority Age Beneficiary irrevocably waives his or her

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right to the specific ~~payment~~Distribution as indicated on the form.-

~~(2)(2) Refusal forms must be received by the Distribution deadline.~~

~~(3) A refused payment shall~~Distribution must be deposited in a ~~pooled account~~Pooled Account in accordance with 9.5-6~~5~~.

~~9.5-3. 9.5-4. Deceased Members. A Tribal member shall be considered~~An Adult or Beneficiary is ineligible to receive a ~~per capita payment~~Distribution if his or her date of death occurs on or before the ~~payment distribution~~Distribution date.

(a) The estate of a deceased ~~Tribal member~~Adult may not submit a membership ~~payment~~Distribution form on behalf of the deceased to claim a ~~per capita payment~~Distribution.

(b) A deceased ~~Tribal member's per capita payment shall~~Adult's Distribution must be deposited in a ~~pooled account~~Pooled Account in accordance with 9.5-6.

~~9.5.~~

~~9.5-4. 5. Adult Relinquishment. A Tribal member~~An Adult is ineligible for any ~~current~~, future or prior ~~per capita payments~~Per Capita Payment Distributions as of the date his or her Tribal ~~membership~~Membership is relinquished. Funds set aside for a former ~~Tribal member's per capita payment shall~~Adult's Distribution must be deposited in a ~~pooled account~~Pooled Account in accordance with ~~9.5-6~~.

~~9.5-65.~~

~~9.5-5. Pooled Account. Upon failure to file a request for a prior payment~~Distribution or ~~trust account~~Trust Account funds within the time provided under this law, ~~the member's Law and/or the Per Capita Trust Agreement, the Adult's or Majority Age Beneficiary's~~ eligibility for the prior ~~payment~~Distribution or ~~trust account~~Trust Account funds ~~shall expire~~expires. Any unclaimed funds held in reserve for such claims ~~shall~~must be deposited in a ~~pooled account~~Pooled Account to be used for a purpose designated by the General Tribal Council. ~~Management of the pooled account shall be the responsibility of the Trust~~The Trust/Enrollment Committee shall manage the Pooled Account.

9.6. MinorsMinor Beneficiaries and Legally Incompetent Adults

9.6-1 ~~General~~Minor Beneficiaries. This ~~section shall set~~Section sets forth a consistent method to protect and preserve the interests of ~~minors and legally incompetent adults~~Minor Beneficiaries in any ~~per capita payment~~Distribution to which they may be entitled. ~~If a per capita payment includes minors a Minor Beneficiary may be eligible. All Distributions to Minor Beneficiaries are governed by this Law, IGRA and/or legally incompetent adults as eligible recipients, those per capita payments shall be deposited into a trust account~~the Per Capita Trust Agreement.

(a) ~~The Trust/Enrollment Committee. The Trust/Enrollment~~ Committee shall establish a standard operating procedure, which ~~shall~~must identify the set-up ~~and~~, monitoring ~~and~~ distribution of the ~~trust accounts~~Trust Accounts. The ~~Trust/Enrollment~~ Committee may choose to maintain pooled or individual accounts, separate accounts for each ~~payment~~Distribution or series of ~~payments~~Distributions, or any other combination which is in the interests of the ~~recipients~~beneficiaries and which is consistent with the terms of the ~~Minor's Per Capita~~ Trust Agreement and the ~~Trust/Enrollment~~ Committee's Investment Policy.

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(1) The Trust/Enrollment Committee is responsible for the protection and preservation of Per Capita Payment funds for Minor Beneficiaries. As part of that responsibility, the Trust/Enrollment Committee shall complete and issue any necessary reports to the Minor Beneficiaries. The Trust/Enrollment Committee shall develop standard reporting procedures, which establish valuation dates and frequency of reports and identify data critical to the completion of reports. The Trust/Enrollment Committee may delegate such reporting responsibilities to duly selected vendors.

(b) *Costs of Account.* The administrative costs related to a ~~trust account shall~~ Trust Account must be allocated to the account. Administrative costs ~~shall be defined as~~ are those costs related to third party fees and expenses resulting from managing the accounts. Administrative costs ~~shall do~~ not include any costs related to the expenses of the Trust Department, ~~Trust /Enrollment~~ Trust/Enrollment Committee or Trust/Enrollment Department. ~~No member who has funds in a trust account shall be guaranteed the specific amount of the per capita payment.~~

(c) *Deceased Member.* ~~The value of a member's trust account shall be inheritable on the date of death of the member. The Trust Committee shall establish a standard operating procedure which shall identify the processes by which an application for payment shall be made. The payment shall be issued either in the name of the deceased member or the estate of the individual.~~

~~(1) If the trust account funds are not claimed by the estate of the deceased within one (1) year after the date of the member's death, the funds shall be deposited in accordance with 9.5-6.~~

~~9.6-2. Minors.~~

~~(a) Disbursement of a Minor's Trust.~~ A Tribal member shall be eligible to receive any funds in the trust account established in his or her name when the member is eighteen (18) years old or older and provides the Enrollment or Trust Department with proof that he or she has obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma. The funds shall be disbursed in accordance with an established payment schedule developed and approved by the Trust Department and Trust Committee.

~~(1) Tribal members who are at least eighteen (18) years old, but do not provide proof of having obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma shall not be eligible to receive any trust funds established in their name until their twenty-first (21st) birthday.~~

~~(2) Exceptions.~~ The following Tribal members may receive any trust funds established in his or her name at the age of eighteen (18) without providing the Enrollment or Trust Department with proof that he or she has obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma:

~~(A) Those who were in the graduating class of 2009 or a prior class.~~

~~(B) Those who are declared legally incompetent adults, provided that, the requirements of 9.6-3 are met. Any funds in the minor's trust account for~~

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a Tribal member who is declared a legally incompetent adult shall be put into a trust account for the legally incompetent adult.

(C) Those who have a learning disability or other disability, provided he or she presents a certificate of attendance showing that he or she has attended twelve (12) years of school. That certificate shall be treated as a High School Diploma.

(3) *Fraudulent Proof of a Diploma.* In the event the Enrollment or Trust Department believes that an individual has submitted fraudulent proof that he or she has received a High School Diploma, High School Equivalency Diploma or a General Equivalency Diploma, the Trust Department shall notify the Tribal member that they are investigating the proof to verify its authenticity. If the proof is deemed fraudulent, the Trust Department shall:

(A) Withhold payment of the trust account funds, if not already paid to the Tribal member, until the requirements of this law have been met.

(B) Impose a fine against the Tribal member of one-third (1/3) of the Tribal member's trust account funds.

(C) Notify the Tribal member of the following:

(i) the proof has been deemed fraudulent;

(ii) payment of the trust account funds, if not already paid to the Tribal member, will not occur until the Tribal member submits valid proof of a diploma or he or she turns twenty-one (21);

(iii) a fine against the Tribal member of one-third (1/3) of the Tribal member's trust account funds will be imposed;

(iv) he or she can appeal the Trust Department's decision to the Trust Committee; and

(v) how to appeal the decision, including any applicable time limits.

(D) Take action to have the Tribal member's future per capita payments attached, in accordance with this law, until the fine is satisfied.

(E) Deposit any funds collected to pay a fine imposed under this section in a pooled account in accordance with 9.5-6.

(b) *Deferral Elections.* An individual may postpone payment of his or her trust account to a later date by entering into a deferral election. Deferral elections are subject to the Tribal Allocation Plan and the rules and restrictions set forth within any applicable trust agreement.

(e) *Unclaimed Minors Trust.* Except as provided for in 9.6-2(c)(1) below, any funds in a minor's trust account that are not claimed within one (1) year after the beneficiary's twenty-first (21st) birthday shall be deposited in a pooled account in accordance with 9.5-6.

(1) *Exception.* An individual who was at least eighteen (18) but not yet twenty-six (26) years old on May 6, 2009 shall have until his or her twenty-sixth (26th) birthday to file a claim for any funds in the minors trust account in his or her name.

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(c) No Guarantee. Due to the Trust/Enrollment Committee's responsibility to invest Minor Beneficiaries Distributions in accordance with the Per Capita Trust Agreement, Minor Beneficiaries are not guaranteed the specific amount of Distributions made prior to becoming a Majority Age Beneficiary.

(d) Minor Beneficiary Relinquishment. Upon a ~~minor's~~ Minor Beneficiary's relinquishment of Tribal membership, the following provisions shall apply:

(1) Any funds in a ~~trust account~~ Trust Account for ~~the minor~~ shall a Minor Beneficiary must be deposited in a joint savings account in the name of the Trust/Enrollment Committee and the former Tribal member Minor Beneficiary.

(2) ~~The~~ B A former Tribal member shall be Minor Beneficiary is eligible to claim the joint savings account in accordance with section 9.6-21(a)(4)(A).

(3) ~~Accounts shall be held until one (1) year after the former Tribal member turns twenty-one (21) years old.~~ (C) Any fees necessary for the establishment and maintenance of such an account shall must be allocated to the account in accordance with the procedures established by the Trust/Enrollment Committee.

(4) ~~Any~~ D A former Majority Age Beneficiary must claim any remaining funds held in a joint savings account that remain prior to the first Distribution following his or her twenty-first (21st) birthday.

(E) Any unclaimed by the former Tribal member one (1) year after his or her twenty-first (21st) birthday shall joint savings account funds must be deposited in a Pooled Account in accordance with section 9.5-6-5.

(e) ~~Tribal members who do not claim their trust fund monies after reaching the age of eighteen (18) shall receive regular per capita payments, if they meet the requirements for an adult Tribal member to receive a per capita payment as set out in this law.~~

9.6-3. Legally Incompetent Adults.

~~(a)~~ (e) Deceased Minor Beneficiary. The value of a Minor Beneficiary's Trust Account is inheritable on the date of the Minor Beneficiary's death. The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the processes by which an application for Distribution may be made. The Distribution may be issued either in the name of the deceased Minor Beneficiary or the estate of the Minor Beneficiary.

(1) If the Trust Account funds for a deceased Minor Beneficiary are not claimed by the estate of the deceased within one (1) year after the date of the Minor Beneficiary's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

9.6-2. Legally Incompetent Adults. This Section sets forth a consistent method to protect and preserve the interests of Legally Incompetent Adults in any Distribution for which they may be eligible. If a Distribution includes Legally Incompetent Adults as eligible recipients, those Distributions must be deposited into a Trust Account in accordance with IGRA.

(a) The Trust/Enrollment Committee. The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the set-up, monitoring, and Distribution of the Trust Accounts. When an ~~adult~~ Adult is declared legally incompetent, any ~~per capita payments~~ Distribution that are is claimed on his or her behalf shall must be

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placed in a ~~trust account~~Trust Account for health, welfare and/or education expenses. The Trust/Enrollment Committee shall develop guidelines to determine if ~~an expense~~a guardian qualifies for reimbursement through a trust account fund payment.

~~(1) The guardian of a legally incompetent adult shall file a petition with the~~Distribution from an established Trust Department when requesting distributions from such person's trust account. The guardian shall provide the Trust Department with either or both of the following:Account.

(A) an account, including receipts, of all expenditures made on behalf of the legally incompetent adult that have not been reimbursed from the trust account.

(B) a written request, including sufficient, current information about a specific need for which the advance distribution will be used. Any advance distributions may be disbursed jointly to the guardian and the provider or institution providing the specific services or the amount disbursed may be paid directly to the provider or institution.

~~(2) The Trust Director or his/her designee shall either grant or deny the request within ten (10) business days.~~

~~(A)(b) Reversal of Incompetency.~~ If the Trust Director approves a distribution request, the funds shall be disbursed within thirty (30) days after the approval. The Trust Director may, with the approval of the Trust Committee, authorize a regular distribution from the trust account for a legally incompetent adult's benefit.

~~(B) If the Trust Director denies a distribution request, he or she shall send, by registered mail (return receipt requested), the denial and the reasons for the denial to the guardian within ten (10) business days after the decision is made.~~

~~(3) Appeals.~~ A guardian whose petition for distributions is denied may file an appeal with the Trust Committee within ten (10) business days of the receipt of the denial.

~~(b) If a court~~a Court of competent jurisdiction determines that an ~~adult Tribal member~~Adult is no longer legally incompetent, the ~~Tribal member~~Adult shall provide the Trust/Enrollment Department with a certified copy of the order. Any funds in the ~~trust account~~Trust Account in the ~~member's~~Adult's name shall be ~~disbursed~~Distributed to the ~~Tribal member~~Adult, provided that the ~~Tribal member is~~Adult must otherwise ~~be~~ eligible for the ~~payment~~Distribution under this law~~Law~~.

~~(c) Relinquishment.~~ Upon a ~~legally incompetent adult's~~the Trust/Enrollment Committee's approval of a Legally Incompetent Adult's relinquishment of Tribal ~~membership~~Membership, any funds in a ~~trust account~~Trust Account for the ~~legally incompetent adult~~shall Legally Incompetent Adult must be disbursed to the guardian of the ~~legally incompetent adult~~Legally Incompetent Adult.

(d) Deceased Legally Incompetent Adult. The balance of a Legally Incompetent Adult's Trust Account is inheritable as of the date of his or her death. The Trust/Enrollment

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Committee shall establish a standard operating procedure which must identify the processes by which the deceased's estate may apply for Distribution of the Trust Account funds. The Distribution may be issued either in the name of the deceased Legally Incompetent Adult or the estate of the Legally Incompetent Adult.

(1) If the Trust Account funds for a deceased Legally Incompetent Adult are not claimed by the estate of the deceased within one (1) year after the date of the Legally Incompetent Adult's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

9.7. Duties and Responsibilities

9.7-1. General. 9.7. Payments

~~9.7-1. General.~~ This section shall ~~setsets~~ forth the responsibilities of ~~the various departments and committees~~ Entities when a ~~per capita payment~~ Distribution is issued.

9.7-2. Trust/Enrollment Department. ~~The Enrollment Department is responsible for the following activities when~~ When a ~~per capita payment~~ Per Capita Payment is approved:

(a) ~~The, the Trust/Enrollment Department shall develop:~~

(a) Develop and finalize a list of the eligible ~~Tribal members~~ Distribution recipients broken down into the following categories: ~~minors, incompetent adults, adults and elderly.~~ Minor Beneficiaries, Majority Age Beneficiaries, Legally Incompetent Adults, Adults and Elders.

(b) ~~The Enrollment Department shall provide~~ (b) Provide the finalized list of the ~~number of Tribal Members~~ eligible ~~Tribal members~~ to receive the Distribution to the ~~Trust Department and the Oneida Accounting Division.~~ and Trust Fund Accountant.

(c) ~~Membership payment~~ Send membership Distribution and Trust Account forms are sent out and upon return are ~~entered~~ and receipts related to the same.

(d) Upon receipt of Distribution and Trust Account forms, enter address and account information into the Enrollment data base.

(d) ~~After~~ (e) Process the ~~membership payment form return deadline date,~~ processing Distribution data and forward the payment and distributing all payments on data to the same day.

9.7-3. Oneida Accounting Division and Trust Department. ~~The Trust Department is responsible for the following activities when a per capita payment is approved:~~ Fund Accountant.

(a) ~~Upon receipt of the number of eligible members to receive a per capita payment, the Trust Department ensures~~ (f) Ensure the availability and liquidity of funds for a funds transfer of the trust funds under the authorization/~~jurisdiction~~ of the Trust/Enrollment Committee.

(b) ~~The Trust Department provides funds~~ (g) Provide fund transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Division.

(c) ~~The Trust Department shall work~~ (h) Work with the Trust/Enrollment Committee in the establishment of to establish any necessary trust accounts Trust Accounts.

(d) ~~The~~ (i) Monitor all Trust Department is responsible for monitoring all ~~accounts~~ Accounts for the purposes of necessary ~~reports~~ reporting, claims and ~~payment~~ Distribution verification.

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(j) Record issued, voided, and unredeemed Trust Account check Distributions in the Enrollment database.

(k) Complete Trust Account bank account reconciliations.

9.7-4. 3. Oneida Accounting Division. ~~The~~ When a Per Capita Payment is approved, the Oneida Accounting Division is responsible for the following activities when a per capita payment is approved shall:

(a) Upon ~~Initiate and complete the funds transfer upon~~ receipt of funds transfer instructions from the authorizing ~~entity, initiate and complete the funds transfer.~~ Entity. The physical movement of funds must happen no later than one (1) business day prior to the ~~distribution~~ Distribution ~~date of the payment.~~

(b) Record issued, voided and ~~state dated distributions~~ unredeemed check Distributions on the ~~General Ledger~~ general ledger.

(c) Complete bank account reconciliations.

9.7-5. *Tribal Treasurer.* The office of the Tribal Treasurer shall ~~be responsible for the identification of~~ identify funds and ~~the~~ shall timely transfer ~~of~~ the necessary amount of relevant funds to the Trust/Enrollment Committee, the Trust Fund Accountant and the Oneida Accounting Division. ~~The relevant funds shall be segregated and obligated for the per capita payments and are those necessary to:~~

(a) ~~Make a payment to those Tribal members responding to the membership payment form deadline who are not minors or incompetent adults.~~

(b) ~~Cover unverified member payments for those members who are unresponsive to the membership payment form deadline.~~

9.8. Appeals

9.8-1. Any Tribal Member or guardian of a Tribal Member may appeal a decision regarding a Per Capita Payment and/or Distribution to the Tribe's judicial system.

End.

Adopted - BC-7-12-00-B

Emergency Amendments – BC-01-03-01-B

Emergency Amendments - BC-2-28-01-E

Amendments - BC-11-06-02-A (Elder Per Capita)

Emergency Amendments - BC-6-25-03-G (Child support priority for attachment)

Amendments - BC-6-16-04-C (Child support priority for attachment)

Emergency Amendments - BC-9-12-07-A (one-time per capita payment)

Amendments – BC-04-22-09-A (High School Diploma; legally incompetent adults)

Emergency Amendments – BC-06-08-11-D (Fraudulent diploma; dual enrollments)

Emergency Amendments extended – BC-11-09-11-E (Fraudulent diploma; dual enrollments)

Amendments Adopted – BC-05-09-12-B (Fraudulent diploma, dual enrollments)

Emergency Amendments – BC-09-12-12-A (Change in distribution date) Expired 3-12-13

Amendments Adopted – BC-08-14-13-D



Legislative Operating Committee AGENDA REFERRAL FORM



1) Today's Date: 10 / 30 / 2015 Date of Referral Action: 10 / 28 / 2015

2) Entity that referred this item to LOC: Oneida Business Committee

3) Individuals or Entities to contact regarding this item: Tribal Secretary's Office

4) Item referred: Petitioner Nancy Barton: To open an Emergency Food Pantry

5) Background information, including applicable actions and dates: The attached petition was submitted to the Tribal Secretary's Office on to October 7, 2015. At an Oneida Business Committee meeting on October 28, 2015, the verified petition was accepted and referred to the Legislative Reference Office for a legislative analysis due in sixty (60) days. A progress report is due in forty-five (45) days.

6) Due date: Update due 12/23/15, analysis due 1/13/15

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

I am submitting the following petition to General Tribal Council to approve opening an Emergency Food Pantry. I am requesting that this pantry be located in the now vacant former Tower Foods. This site is adjacent to the Food Distribution Program and newly developed garden. This pantry would serve those households where an enrolled Tribal Member resides.

The income guidelines would remain consistent with state and federal eligibility but discretionary measures will be put in place to review each case on a case by case basis. Circumstances of eligibility would include but not be limited to interruption of family income, job loss, change in family composition, homelessness.

I am requesting the following funding sources be transferred to the Emergency Food Pantry

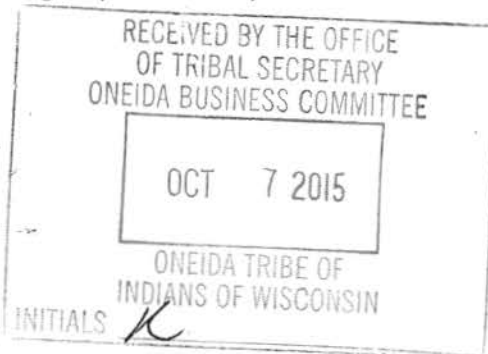
\$50,000 from Center for Self Sufficiency (Festival Food Cards)

I am requesting the following Tribal entities supply to the Pantry

Oneida Nation Farm: Buffalo, Grass Fed Beef eggs chicken

Tsyunhekwa, Cannery White Corn Other products

Apple Orchard: Apples



I am requesting that the GTC approve suspending all food purchases at the Oneida Radisson for meetings, conferences and summits. This previously budgeted amount would be transferred to the Emergency Food Pantry.

Any and all other funding sources including current applicable grants that will benefit the most enrolled Tribal Members be transferred to the emergency food pantry.

I am requesting GTC to approve hiring a Manager and 2 warehouse workers all other positions would be volunteer. This manager would report quarterly to the Business Committee and directly to General Tribal council by report form at the Semi- Annual and Annual meetings. These reports shall include financial, and statistical data, trends, successes and problems. Manager must have three letters of recommendation of prior experience working in the social services.

I am requesting to reinstate the 2008 budget for this food pantry when the program was terminated.

I am requesting that the Tower Foods Building be prepared to meet the needs of Oneida Tribal Members who are requesting food.

I am requesting the following supplies and equipment: A van for delivery and pick up. A Forklift, and 2 dollies. Computer software and office supplies, Freezer and refrigerators

I am requesting the doors of this Emergency Food Pantry be opened on Oct. 1 2016. Hours of pick up would be from 9:00 to noon Monday thru Friday.

Job Requirements: Must be Enrolled Tribal Members

RECEIVED
OCT 07 2015
Oneida Enrollment Dept.

PETITION FORM

NAME OF PETITIONER: Nancy Barton

PURPOSE: Emergency Food Pantry

RECEIVED

OCT 07 2015

Oneida Enrollment Dept.

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY:

Please Print Clearly - Use Full Given Name

RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE

OCT 7 2015

ONEIDA TRIBE OF
INDIANS OF WISCONSIN

INITIALS K

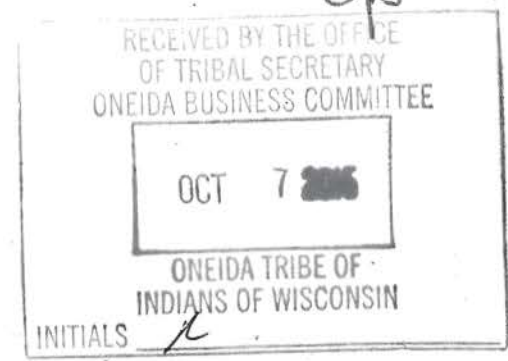
Printed Name	Address	D.O.B	Enrollment #	Signature
			10031 ✓	
			11500 ✓	
			1658 ✓	
			1270 ✓	
			7964 ✓	
			6749 ✓	
			852 ✓	
			896 ✓	
			10899 ✓	
			14842 ✓	
			10904 ✓	
			14269 ✓	
			288 ✓	
			12469 ✓	

(14) Verified

Printed Name	Address	D.O.B.	Enrollment #	Signature
			10722	✓
			3 6923	✓
			877 #9607	✓
			4944	✓
			631	✓
			0643	✓
			2089	✓
			2098	✓
			1294	✓
			935	✓

Enrollment Numbers Verified by: Cheryl Sholaski
Date: 10/7/15
Name of Petitioner: _____
Address: _____
Phone #: _____ Enrollment #: _____

10 Verified
dip



RECEIVED
OCT 07 2015
Oneida Enrollment Dept.

PETITION FORM

3

NAME OF PETITIONER: Nancy Barton

PURPOSE: Emergency Food Pantry

RECEIVED

OCT 07 2015

Oneida Enrollment Dept.

RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE

OCT 7 2015

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY:

Please Print Clearly - Use Full Given Name

ONEIDA TRIBE OF
INDIANS OF WISCONSIN
INITIALS K

Printed Name	Address	DOB	Enrollment #	Signature
			10928 ✓	
			8329 ✓	
			7 256 ✓	
			4038 ✓	
			68 ✓	
			0624 ✓	
			11417 ✓	
			6395 ✓	
			274 ✓	
			4630 ✓	
			4009 ✓	
			9950 ✓	
			4011 ✓	
			3533 ✓	
			12715 ✓	

15 Verification
cjo

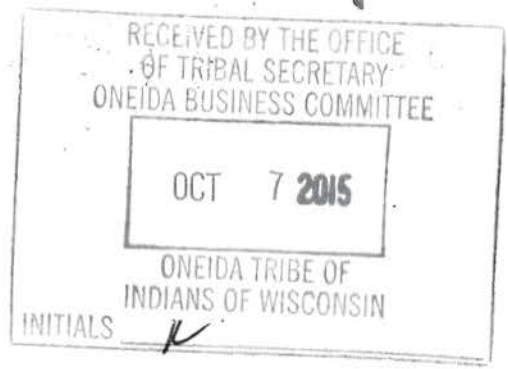
Printed Name	Address	D.O.B.	Enrollment #	Signature
			10672 ✓	
			10770 ✓	
			5675 ✓	
			11 ✓	
			3709 ✓	
			1023 ✓	
			1023 ✓	
			10660 ✓	
			8385 ✓	
			289 ✓	

KC

Enrollment Numbers Verified by: Cheryl Malaske
Date: 10/7/15

Name of Petitioner: _____
Address: _____
Phone #: _____ Enrollment #: _____

10 Verified
cp



RECEIVED
OCT 07 2015
Oneida Enrollment Dept.

PETITION FORM

5

NAME OF PETITIONER: Nancy Bactori

PURPOSE: Emergency Food Pantry

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY:

Please Print Clearly - Use Full Given Name

Printed Name	Address	D.O.B.	Enrollment #	Signature
			<u>5183</u>	
3.				
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① Verified ap

RECEIVED BY THE OFFICE
OF TRIBAL SECRETARY
ONEIDA BUSINESS COMMITTEE

OCT 7 2015

ONEIDA TRIBE OF
INDIANS OF WISCONSIN

INITIALS K

RECEIVED

OCT 07 2015

Oneida Enrollment Dept.



Oneida Tribe of Indians of Wisconsin

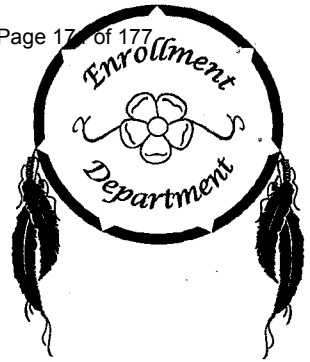
ENROLLMENT DEPARTMENT

P.O. BOX 365, ONEIDA, WI 54155-0365

PHONE: (920) 869-6200 * 1-800-571-9902 FAX: (920) 869-2995

www.oneidanation.org/enrollment

Page 17 of 177



TO: Oneida Business Committee

FROM: Cheryl Skolaski, Enrollment Director *Cheryl Skolaski*

DATE: October 7, 2015

SUBJECT: GTC Petition Verification

Received GTC Petition from Nancy Barton re: Emergency Food Pantry.

Verified signatures on petition.

50 signatures were submitted,

50 signature were verified as valid,

Verified by:

Cheryl Skolaski
Signature/Title

10/7/15
Date

If you have any questions, please feel free to contact me.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: 10/28/2015
- 2) Contact Person(s): Tonya Webster Dept: Licensing
Phone Number: ext 5311 Email: twebster@oneidanation.org
- 3) Agenda Title: Marriage Law Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
Amendments to the law to provide for a waiver of the waiting period and a process for applying
for a waiver; to provide for an administrative fee for amendments to an application after it has
been submitted; to provide for a process to adopt a fee schedule;

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

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please List any laws, ordinances or resolution that might be affected:
Marriage Law
- 6) Please List all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☒ No
If yes, please indicate why: _____

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

Signature of Requester: 

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

November 2015

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					

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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
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

December 2015

December 2015							January 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30
							31						

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