Chapter 7
OPEN RECORDS AND OPEN MEETINGS

SUB-CHAPTER I OPEN RECORDS
7.1. Purpose and Policy
7.2. Adoption, Amendment, Conflicts
7.3. Definitions
7.4. Limitations Upon Access and Exceptions
7.5. Categories of Public Information
7.6. Legal Custodians
7.7. Access to Records
7.8. Fees
7.9. Records Management and Record Retention
7.10. Personal Data Subject to Challenge; Authority Corrections
7.11. Enforcement

SUB-CHAPTER II OPEN MEETINGS
7.12. Purpose and Policy
7.13. Definitions.
7.14. Public Notice Business Committee
7.15. Public Notice Other Governmental Bodies
7.16. Recording and Photographing
7.17. Exceptions
7.18. Enforcement

SUB-CHAPTER I OPEN RECORDS

7.1. Purpose and Policy

7.1-1. *Purpose.* The purpose of this law is to advance the democratic principle of open government by providing access to information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this law.

7.1-2. *Policy.* The Oneida Tribe believes in the importance of having an informed electorate and hereby declares that the Oneida people are entitled to information pertaining to governmental business. To that end, this law shall be construed with a presumption of public access for Oneida Tribal members and Tribal employees, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only under certain exceptions may access be denied.

7.1-3. Nothing contained in Sub-Chapters I or II of this law shall be construed as granting a right to records or access to meetings to any individuals or parties other than those individuals or parties defined as the "public" in this law. Any waivers of sovereign immunity contained in this law are strictly limited to the enforcement actions contained in 7.11-3 and 7.18-1.

7.2. Adoption, Amendment, Conflicts

7.2-1. This law was adopted by the Oneida Business Committee by resolution 1-12-05-B and amended by resolution(s) BC 04-12-06-KK, BC-10-14-09-B, and BC-06-25-14-B.

7.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

7.2-3. 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.

7.2-4. Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

(a) Specifically, resolution BC-8-30-95-D, Records Management System Supervision, is repealed.

(b) Resolution BC-06-10-98-A, Adoption of Ordinance for the Protection and Management of Archaeological, Cultural, and Historic Resources, shall not be affected by this law.

7.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

7.3. Definitions

7.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Authority" means any of the following having custody of a record: a governmental body, elected official, or business unit.

(b) "Draft" means preliminary notes, computations, or like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working.

(c) "Electronic record" means any information that is recorded in a form that only a computer can process.

(d) "Governmental body" means the Oneida Business Committee and any department, division, board, committee, commission or judicial body of the Oneida Tribe.

(e) "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.

(f) "Legal custodian" means the person(s) designated by this law, or designated by an authority that is responsible for the care, custody and release of documents.

(g) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(h) "Privileged attorney-client information" means records pertaining to communications between attorneys and their clients.

(i) "Public" means any enrolled Tribal member, or a Tribal employee who needs a record to perform a duty or responsibility in connection with employment.

(j) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts, and optical disks. "Record" does not include drafts; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent, contractual agreement, or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(k) "Requester" means any person defined as "public" who requests to inspect or copy a record. "Requester" does not include a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his or her minor children and the record is otherwise accessible to the person by law.

(l) "Trade Secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process to which all of the following apply:

(1) The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.

(2) The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

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

7.4. Limitations Upon Access and Exceptions

7.4-1. While this law addresses records produced in the course of governmental business, it is recognized that Tribal governmental business often includes matters relating to Tribal business enterprises and other generally non-governmental duties. This section is intended to address records of a sensitive nature, where the public's right to a document is outweighed by the public interest in keeping such documents confidential. The following shall be exempt from inspection and copying:

(a) Proposals and bids for any contract or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the Tribe, until an award or final selection is made and after deletion of the portions which are exempt from disclosure under this law. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(b) Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties.

(c) Information that, if disclosed, would constitute an unreasonable invasion of personal privacy, unless the disclosure is consented to in writing by the subject of the information.

(d) Records of law enforcement agencies that deal with detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement.

(e) Trade secrets and commercial or financial information obtained from a person or business, or such information belonging to the Tribe where the trade secrets or information are proprietary, privileged, or confidential, or where disclosure of the trade secrets or information may cause competitive harm. Nothing contained in this paragraph shall be construed to prevent a person or business from consenting to disclosure.

(f) Drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated. However, once these records are discussed in open session by the governmental body, they become available for inspection and copying. Furthermore, draft laws, rules, regulations, policies, and memorandums may be shared at the discretion of the drafter or author.

(g) Inter-office communications relating to proposals or matters which have not been introduced for consideration in an open meeting. This includes:

(1) Inter-office memorandums, personal notes, drafts, communications with staff and other records which relate to ongoing matters or works in progress currently being performed.

(2) Records relating to the subject of an ongoing investigation.

(3) Records relating to proposals which did not result in legislation.

(h) Medical information which contains personally identifiable information. Nothing in this paragraph shall be construed to prevent a person from inspecting or copying his or her own medical file or consenting to disclosure.

(i) Privileged attorney-client information or attorney work product.

(j) Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding, or court proceeding.

(k) Any record containing personally identifiable information that, if disclosed, would endanger an individual's life or safety or identify an informant.

(l) Any records of the Oneida Child Protective Board to the extent the records are related to the official duties of the Board.

(m) Other records protected from disclosure by law.

7.4-2. *Audit Records.* The release of audit records shall be governed by the Audit Law.

7.4-3. *Personnel Records.* The regulations regarding the storage and protection of personnel records shall be governed by the Tribe's personnel policies and procedures.

7.4-4. The Oneida Gaming Commission is hereby authorized to promulgate regulations regarding information developed, created or located during a background investigation required by the Gaming Division under adopted laws and regulations. Provided that, an employee shall not be barred from viewing the contents of their investigatory file.

7.4-5. *Student Records.* The release of records pertaining to students enrolled in Oneida schools shall be governed by the Tribal education code and other applicable laws.

7.4-6. If an authority is unsure about whether a document may be released, the authority shall consult with the Oneida Law Office prior to release.

7.5. Categories of Public Information

7.5-1. Without limiting the amount or kind of information that is public information under this law, the following categories of information are public information:

(a) The name, title, and dates of employment of each employee and officer of a governmental body.

(b) Salaries, stipends, and expenses of elected and appointed officials of the Tribe.

(c) The name of each official and the voting record of all open meetings of a governmental body.

(d) Laws, ordinances, policies, and amendments thereto.

(e) Final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases.

(f) A governmental body's standard operating procedures.

(g) Information that is contained in a public court record.

7.6. Legal Custodians

7.6-1. A legal custodian is the person(s), identified in this section, who is responsible for the care, custody and release of documents.

7.6-2. An elected or appointed official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian. No elected or appointed official is responsible for the record of any other elected or appointed official unless he or she has possession of the record of that other official.

7.6-3. Except for the Oneida Business Committee, the chairperson of a governmental body, or the designee of the chairperson, is the legal custodian of the records of the governmental body. The Tribal Secretary shall be the legal custodian of all records of the Oneida Business Committee and Oneida General Tribal Council.

7.6-4. Every authority not specified in 7.6-2 and 7.6-3 shall designate in writing one (1) or more positions occupied by an officer or employee of the authority or the unit of government of which it is a part as a legal custodian to fulfill its duties under this subchapter. In the absence of a designation, the authority's highest ranking officer and the chief administrative officer, if any, are the legal custodians for the authority.

7.7. Access to Records

7.7-1. *Right to Inspection.* Except as otherwise provided by law any requester has a right to inspect any record.

7.7-2. *Written Records.* Except as otherwise provided by law, any requester has a right to make or receive a copy of a record which appears in written form. If a requester appears personally to request a copy of a record, the authority may either permit the requester to photocopy the record, or provide the requester with a copy substantially as readable as the original.

7.7-3. *Audio Tape Recording.* Except as otherwise provided by law, any requester has a right to receive from an authority a copy of an audio tape recording, which is substantially as audible as the original. Upon request, the authority may instead provide a transcript of the audio recording.

7.7-4. *Video Tape.* Except as otherwise provided by law, any requester has a right to receive from an authority, a copy of a video tape recording, which is substantially as good as the original.

7.7-5. *Voice and Handwriting.* If an authority receives a request to inspect or copy a record that is in handwritten form, or a record that is in the form of a voice recording which the authority is required to withhold or from which the authority is required to delete information because the handwriting or the recorded voice would identify an informant, the authority shall provide to the requester, upon his or her request, a transcript of the record or the information contained in the record without the identifying information, if the record or information is otherwise subject to public inspection and copying under this subsection.

7.7-6. *Other.* Except as otherwise provided by law, any requester has a right to inspect any record not specified in 7.7-2 through 7.7-5 the form of which does not permit copying. If a requester requests permission to photograph the record, the authority having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the authority shall provide a good quality photograph of the record.

7.7-7. A request is deemed sufficient if it reasonably describes the record or the information sought. However, a request for a record without reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request.

7.7-8. A legal custodian may request proof of Tribal membership or proof that a requester is a Tribal employee before allowing a record to be inspected or copied. Except as authorized under this paragraph, a request may not be refused because the request is received by mail, unless prepayment of a fee is required under 7.8. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security, law, or regulations so require.

7.7-9. A legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

7.7-10. *Record Destruction.* No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record until after the request is granted or until at least sixty (60) days after the date that the request is denied.

7.7-11. *Time for Compliance and Procedures.* Each authority, upon receipt of a request for any record, shall, within a reasonable period of time, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and state the reasons therefor.

7.7-12. This section shall not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

7.8. Fees

7.8-1. Each authority, upon request for a copy of records, shall make the records available in a timely manner, contingent upon the payment of reasonable fees when required under this section.

7.8-2. Fees shall not exceed: 25 cents per page paper copy; $1.75 per page color copy; $3.00 per computer disk; $5.00 per audio tape; $10 per video.

7.8-3. *Reproduction and Transcription of Record.* An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary, and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

7.8-4. *Photographing and Photographic Processing.* Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon the requester of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.

7.8-5. *Electronic Records.* An authority may impose a fee upon a requester for providing the requester with an electronic record. The fee shall not exceed the actual, necessary and direct cost of providing the electronic record.

7.8-6. *Locating a Record.* Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location.

7.8-7. *Mailing and Shipping.* An authority may impose a fee upon a requester for the costs of mailing or shipping of records.

7.8-8. *Prepayment of Fee.* An authority may require prepayment by a requester of any fee or fees if the total amount exceeds five dollars ($5.00).

7.9. Records Management and Record Retention

7.9-1. This section shall govern the storage of the records of the Tribe and its governmental bodies.

7.9-2. There is hereby created a Records Management Office charged with collecting, storing, and disposing of records created by the Tribe and its governmental bodies.

7.9-3. The Records Management Office shall establish categories for the classification of all records so that specific retention schedules may be created. Regulations governing the collection, storage and disposal of records may be adopted by the Oneida Business Committee through resolution upon recommendation by the Records Management Office. If the Oneida Business Committee approves such a resolution it shall be considered adopted by reference as though fully set forth in this law.

7.9-4. *General Retention Period.* Unless an alternate retention period is approved by the Oneida Business Committee for specific records and except as otherwise provided by law, all records shall be retained at least seven (7) years before destruction.

7.9-5. *Alternate Retention Period.* Any alternate retention period differing from the period prescribed in 7.9-4 shall be approved by the Oneida Business Committee through resolution. If the Oneida Business Committee approves an alternate retention period, that retention period shall be considered adopted by reference as though fully set forth in this law. The official copies of the records retention periods shall be on file in the office of the Tribal Secretary.

7.9-6. *Destruction Pending Litigation.* Notwithstanding the above, no record subject to pending litigation shall be destroyed until the litigation is resolved and the time limit for an appeal has expired.

7.9-7. *Consultation and Notification.* The Records Management Office shall consult with any affected governmental body prior to submitting a retention schedule to the Oneida Business Committee for consideration. If the schedule is approved by the Oneida Business Committee, the Records Management Office shall notify the affected governmental body and provide a copy of the approved schedule.

7.10. Personal Data Subject to Challenge; Authority Corrections

7.10-1. An individual may challenge the accuracy of a record containing personally identifiable information pertaining to the individual that is maintained by an authority if the individual is authorized to inspect the record and the individual notifies the authority, in writing, of the challenge. After receiving the notice, the authority shall do one of the following:

(a) Concur with the challenge and correct the information.

(b) Deny the challenge, notify the individual or person authorized by the individual of the denial and the reasons for the denial, and allow the individual, or person authorized by the individual, to file a concise statement setting forth the reasons for the individual's disagreement with the disputed portion of the record.

7.10-2. This section does not apply to any record pertaining to an individual if a specific law, ordinance, resolution, or policy governs challenges to the accuracy of the record.

7.11. Enforcement

7.11-1. A requester may file a written appeal to the appropriate Area Manager clearly identifying what records are being sought within five (5) business days after being denied a record by a legal custodian. In the event that there is not an Area Manager, the appeal may be filed with the Tribal Secretary. When the Tribal Secretary is the legal custodian, an appeal may be filed directly with the Judiciary.

7.11-2. The burden shall be on the Area Manager or Tribal Secretary to demonstrate why the record is not open to inspection or copying within five (5) business days after receipt of the requester's appeal.

7.11-3. The requester may bring an action, within five (5) business days after receipt of the Area Manager's or Tribal Secretary's decision, petitioning the Judiciary to order release of the record.

7.11-4. An employee may be subject to disciplinary action in accordance with the Personnel Polices and Procedures if he or she:

(a) releases records which are barred from release under 7.4; or

(b) does not observe the record retention requirements under 7.9-4 or 7.9-5.

7.11-5. An elected official may be subject to removal, and an appointed official subject to termination of appointment, if he or she releases a record which is barred from release under 7.4, or for not observing the record retention requirements under 7.9-4 or 7.9-5.

SUB-CHAPTER II OPEN MEETINGS

7.12. Purpose and Policy

7.12-1. *Purpose.* In recognition of the fact that the Oneida Tribe of Indians of Wisconsin's government is dependent upon an informed electorate, it is declared to be the policy of this Tribe that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

7.12-2. *Policy.* To implement and ensure the public policy herein expressed, all meetings of the Tribe shall be publicly held in places reasonably accessible to members of the Tribe and shall be open to members at all times unless other wise expressly provided by law.

7.13. Definitions.

7.13-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Governmental body" means any board, committee or commission of the Oneida Tribe of Indians of Wisconsin. For the purpose of this sub-chapter, the Oneida Child Protection Board, Oneida Trust Committee and the Judiciary, when acting in an administrative capacity or deliberating a case, and the Oneida Gaming Commission are excluded from this definition.

(b) "Meeting" means the convening of members of a governmental body where (1) there is a purpose to engage in governmental business and (2) the number of members present is sufficient to determine the governmental body's course of action. This does not include social gatherings.

(c) "Open session" means a meeting which is held in a place reasonably accessible to members of the public at all times.

7.14. Public Notice Business Committee

7.14-1. All meetings of the Business Committee shall be preceded by public notice and, except where otherwise provided, shall be held in open session.

7.14-2. *Regular Meetings.* Public notice of all meetings of the Business Committee shall be given at the beginning of each calendar year by publishing a schedule containing the time, date and place of all regular meetings.

7.14-3. *Special Meetings.* Special meetings of the Business Committee shall be held upon a three-day advance notice by the chairman to all members thereof or upon written request of a majority of the Business Committee stating the time, place, and purpose of the meeting.

7.14-4. *Emergency Meetings.* Emergency meetings of the Business Committee shall be held upon at least twenty-four (24) hours advance public notice unless, for good cause, such notice is impossible or impractical.

7.15. Public Notice Other Governmental Bodies

7.15-1. All meetings of governmental bodies other than the Business Committee, shall be preceded by public notice and, except where otherwise provided by any other laws or bylaws, shall be held in open session.

7.15-2 Public notice of all meetings of a governmental body shall set forth the time, date and place of the meeting and shall be given in the following manner:

(a) As required by any other laws or bylaws;

(b) By communication from the presiding officer to the editor of the Kalihwisaks when the submission deadline precedes a meeting date; and

(c) At least twenty-four (24) hours prior to the commencement of such a meeting unless, for good cause, such notice is impossible or impractical, in which case shorter notice may be given.

7.16. Recording and Photographing

7.16-1. Any Tribal member may photograph, tape-record, or otherwise reproduce any part of a meeting required to be open as long as the device:

(a) Is operated openly so that it is obvious to those in attendance that the meeting is being recorded;

(b)· Does not create an excessive noise that disturbs any individual attending the meeting;

(c) Is operated without excessively bright artificial light that disturbs any individual attending the meeting; and

(d) Does not otherwise interfere with an individual's observation or participation in the meeting.

7.16-2. Any governmental body may regulate the placement and use of equipment necessary for photographing or recording a meeting, to prevent undue interference. However, a governmental body must allow such equipment to be placed within the meeting room in such a way as to permit its intended use as long as it does not interfere or disrupt the meeting.

(a) In order to maintain the orderly conduct of an open meeting, the presiding officer may restrict movement of a person who is using a recording device.

7.16-3. Exceptions may be granted by the Oneida Business Committee for non-Tribal news media coverage requests.

7.16-4. A recording or photograph of an open meeting made by a Tribal member, or any transcript derived from such a recording, may not be deemed a part of the record or any proceeding of a governmental body.

7.17. Exceptions

7.17-1. Closed meeting sessions, or executive sessions, are permissible, if they relate to personnel matters or contract discussion or other exceptions enumerated in section 7.4-1 of Subchapter I of this law.

7.18. Enforcement

7.18-1. Any Tribal member shall have the power to enforce the requirements of this subchapter by filing suit with the Judiciary within thirty (30) days after the violation arises. The Judiciary shall have the power, in its discretion and upon good cause shown, to issue an appropriate order, injunction, or prohibition and to declare any action taken in violation of this law void in whole or in part.

End.

Adopted BC# 1-12-05-B
Amended - BC-04-12-06-KK
Amended - BC-10-14-09-B
Amended - BC-06-25-14-B