

NOTICE OF PUBLIC MEETING

**TO BE HELD
APRIL 30, 2015 AT 12:15 P.M.**

**OBC CONFERENCE ROOM
NORBERT HILL CENTER
ONEIDA, WI**



TOPIC: PROPOSED AMENDMENTS TO THE REMOVAL LAW

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the Oneida Community regarding a legislative proposal that would amend the Removal Law. The changes establish two separate processes for removing an elected official from office: one process for Oneida Business Committee members and one for all other elected officials. The separate processes differentiate between boards, committees and commissions created by Tribal law; and the OBC—which was created by the Tribal Constitution.

- ◆ As the final step in the removal process, General Tribal Council would still vote on the removal of an OBC member, but for all other elected officials, the OBC would make the final decision, and the official would be removed from office if six OBC members voted in favor of removal.
- ◆ The amendments enable Tribal boards, committees, and commissions to submit a formal removal request for one of their elected members, without having to collect signatures for a petition. In order to submit a removal request, the entity would only need to approve, by majority vote, of taking such action.
- ◆ A new provision adds that if elected officials of a board, committee or commission violate their entity's bylaws, operating agreements, laws, regulations or SOPs; it is grounds for removal.

PUBLIC COMMENT PERIOD OPEN THROUGH MAY 7, 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, visit the Oneida Register online at: www.Oneidanation.gov/Register or contact the Legislative Reference Office.

Legislative Reference Office

PO Box 365

Oneida WI, 54155

LOC@Oneidanation.org

Phone: (920) 869-4376

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The LRO is located in the Norbert Hill Center, Oneida WI.

Visitors are always welcome.

Chapter 4
REMOVAL LAW

Kwah Oná luwalihutákwás Kayanláhsla
 Just when they will remove him our kind of laws

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

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

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Overview

The proposed amendments to the Removal Law (the Law) change the current process for removing elected officials from office. Instead of one single removal process for all elected officials, the amendments split this Law into two separate parts – one sets out the process for removing Oneida Business Committee (OBC) members from office, and the other sets out the process for removing all other elected officials. The proposed amendments distinguish the OBC,

8 which was established by the Tribal Constitution; from other boards, committees and
9 commissions, which were created by Tribal law.

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11 *Removal of an OBC Member*

12 OBC members would still be subject to the same removal process established under the
13 current Removal law - *i.e.* a signed petition is submitted; a preliminary and then formal hearing
14 are held before the Judiciary; and if the petitioner proves with clear and convincing evidence that
15 grounds for removal exist, then a GTC meeting must be called within 45 days for GTC to vote
16 on whether to remove the elected official. The only noticeable difference is that the Law no
17 longer specifically requires the Tribal Chair to call a GTC meeting within 45 days of receiving
18 the Judiciary's findings; instead it states that a GTC meeting shall be held within 45 days after
19 receiving the findings. [4.5 to 4.8]

20 *Removal of all other elected Officials*

21 All other elected Officials would still be subject to the same removal process established
22 under the current Law, with three main differences:

- 23 • There are now two ways (instead of one) to begin the removal process:
- 24 1) **Petition.** The current petition process would continue to be available.
 - 25 2) **Removal Request.** The amendments allow a Tribal board, committee or
26 commission (entity) to seek removal of one of its elected Officials by submitting a
27 removal request to the Tribal Secretary's Office. In order to submit a formal
28 removal request; the entity must approve, by majority vote, of taking such action.
29 [4.9-4] The Official may request that the Judiciary review the validity of the
30 action taken by the entity. [4.10-3] For the preliminary and formal hearings before
31 the Judiciary; the entity is deemed to be the other party to the action, and is
32 responsible for proving the allegations against the elected Official at the formal
33 hearing. [4.11-2 and 4.11-3]
- 34 • The final vote on whether to remove an elected Official would be made by the OBC,
35 instead of the GTC. A special OBC meeting must be called for that purpose, and if six
36 members of the OBC vote for removal, then the official is removed from office. The
37 OBC meeting must be held within 45 days after receiving the Judiciary's findings; and
38 the removal request/petition must be dismissed if the OBC fails to obtain quorum at the
39 special meeting. [4.12]
- 40 • Currently, the Law lists various grounds for which an elected Official can be removed
41 from office. The amendments add a new grounds for removal, which applies to all elected
42 officials except OBC members: an Official can be removed from office for violating the
43 entity's bylaws, operating agreements, laws, regulations or Standard Operating
44 Procedures. [4.4-1(c)]

45 **Miscellaneous**

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

50 A public meeting has not been held.

54 **Chapter 4**
55 **REMOVAL LAW**
56

57 **4.1. Purpose and Policy**

58 4.1-1. The purpose of this ~~L~~Law is to govern the removal of persons elected to serve on the
59 Oneida Business Committee and on boards, committees and commissions of the Oneida Tribe of
60 Indians of Wisconsin.

61 4.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to provide an orderly and fair
62 process for the removal of persons elected to serve on the Oneida Business Committee and on
63 boards, committees and commissions.

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65 **4.2. Adoption, Amendment, Repeal**

66 4.2-1. This ~~L~~Law is adopted by the General Tribal Council by ~~GTC~~Resolution #~~1~~GTC-01-09-
67 06-A and amended by Resolution BC-05-28-14-B; and by Resolution GTC_____.

68 4.2-2. This ~~L~~Law may be amended or repealed by the General Tribal Council only pursuant to
69 the procedures set out in the Legislative Procedures Act.

70 4.2-3. Should a provision of this ~~L~~Law or the application thereof to any person or circumstances
71 be held as invalid, such invalidity shall not affect other provisions of this law which are
72 considered to have legal force without the invalid portions.

73 4.2-4. ~~All other Oneida laws, policies, regulations, rules, resolutions, motions and all other~~
74 ~~similar actions which are inconsistent with this law are hereby repealed unless specifically re-~~
75 ~~enacted after adoption of this law. Specifically, the following resolutions are repealed by this~~
76 ~~law~~In the event of a conflict between a provision of this Law and a provision of another law, the
77 provisions of this Law shall control. Provided that, this Law repeals the following:

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

83 4.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of
84 Wisconsin.

85
86 **4.3. Definitions**

87 4.3-1. This section shall govern the definitions of words or phrases ~~as used herein~~within this
88 Law. All words not defined herein shall be used in their ordinary and everyday sense.

89 (a) "Counsel" means an attorney or advocate.

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

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

96 ~~(d)~~(d) "Tribe" means the Oneida Tribe of Indians of Wisconsin.
97

98 **4.4. Grounds for Removal**

99 ~~4.4-1.~~ **4.4-1. Oneida Business Committee.** A member of the Oneida Business Committee may be
100 removed from office for any of the following reasons:

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

108 **4.4-2. Elected Official.** An elected official may be removed from office for any of the following
109 reasons:

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

122
123 **4.5. Petition – Oneida Business Committee**

124 4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an
125 ~~elected official.~~ **Oneida Business Committee member.** No petition shall request the removal of
126 more than one (1) ~~elected official.~~ **Oneida Business Committee member.** The petition shall state
127 with particularity the facts upon which it is based and the specific grounds for removal, in not
128 more than two hundred (200) words, and must be signed by fifty (50) or more eligible voters or a
129 number equal to at least thirty (30) percent of the votes cast in the previous general election,
130 whichever is greater. A petition may not be amended after it is filed with the Tribal Secretary.

131 4.5-2. The petition shall be filed within thirty (30) days after the date the first signature is
132 obtained on the petition.

133 4.5-3. The petition shall contain, in ink:

- 134 (a) The appropriate lines for the eligible voter's:
 - 135 (1) Printed name;;
 - 136 (2) Signature;;
 - 137 (3) Street address; and
 - 138 (4) Enrollment number;;
- 139 (b) An oath verifying the fact that:
 - 140 (1) The circulator witnessed each person sign the petition;;
 - 141 (2) Each signature appearing thereon is the genuine signature of the person it
142 purports to be;; and
 - 143 (3) The petition was signed in the presence of the witness on the date indicated.

- 144 4.5-4. Upon receipt of a petition, the Tribal Secretary shall promptly:
145 (a) Submit such petition to the Oneida Tribal Enrollment Department which shall, within
146 five (5) business days, determine whether the petition contains the requisite number of
147 signatures of eligible voters; and
148 (b) Notify the ~~elected official~~Oneida Business Committee member sought to be removed
149 that a petition has been filed seeking his or her removal by providing a copy of the
150 uncertified petition.
- 151 4.5-5. If the Enrollment Department determines that the petition does not contain the requisite
152 number of signatures, the Tribal Secretary shall so certify to the Oneida Business Committee and
153 file the petition without taking further action, and the matter shall be at an end. No additional
154 names may be added to the petition, and the petition shall not be used in any other proceeding.
- 155 4.5-6. If the Enrollment Department determines that the petition contains the requisite number of
156 signatures, then the Tribal Secretary shall promptly cause a certified copy of the petition to be
157 served upon the ~~elected official~~Oneida Business Committee member sought to be removed and
158 forward a copy of the same to the Judiciary.
- 159 4.5-7. In the event the removal of the Tribal Secretary is sought, the Tribal Vice Chairperson
160 shall perform the duties assigned to the Secretary under this Law.

162 **4.6. Preliminary Review – Oneida Business Committee**

- 163 4.6-1. The Judiciary, upon receipt of the petition shall schedule a preliminary review, to take
164 place within twenty (20) calendar days, to determine whether the allegations set forth in the
165 petition would constitute sufficient grounds for removal. The Judiciary may request that the
166 parties submit arguments in writing, and the parties may be represented by counsel.
- 167 4.6-2. If the Judiciary determines that a petition does not allege sufficient grounds for removal,
168 the petition shall be dismissed. If the Judiciary determines that the petition alleges sufficient
169 grounds for removal, the Judiciary shall conduct a hearing under 4.7.
- 170 4.6-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the
171 petition may be reviewed by the Judiciary upon motion of the ~~elected official~~Oneida Business
172 Committee member whose removal is sought. The motion shall be filed within twenty (20)
173 calendar days of service of the certified copy of the petition upon the ~~elected official~~Oneida
174 Business Committee member sought to be removed. The motion shall be in writing and the
175 grounds limited to:
176 (a) the authenticity of the signatures; and
177 (b) whether the signature is that of an eligible voter.
- 178 4.6-4. The Judiciary review shall be conducted in the presence of the parties, who may be
179 represented by counsel during the ~~inspection~~review. Opportunity to present evidence and
180 testimony shall be provided. If the Judiciary determines that a petition contains less than the
181 required number of valid signatures, the petition shall be dismissed.
- 182 ~~4.6-5. In the event the removal of a member of the Judiciary is sought, the Clerk of Courts shall~~
183 ~~convene a panel of three (3) judges who are members of the Wisconsin Tribal Judges~~
184 ~~Association to carry out the Judiciary's responsibilities under this law.~~
- 185
- #### 186 **4.7. Hearing – Oneida Business Committee**
- 187 4.7-1. ~~Rights of Elected Official~~Oneida Business Committee Member at Hearing. An ~~elected~~
188 ~~official~~Oneida Business Committee member whose removal is sought shall have the right to

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

191 | 4.7-2. *Burden of Proof.* A person seeking the removal of an ~~elected official~~ Oneida Business
192 | Committee member shall have the burden of proving by clear and convincing evidence that
193 | ground(s) for removal exist.

194 | 4.7-3. *Findings.* The Judiciary shall, within twenty (20) calendar days after the preliminary
195 | review has been completed, determine whether each allegation of the petition has been proven by
196 | clear and convincing evidence, and whether such allegations constitute sufficient grounds for
197 | removal under 4.4-1. If the Judiciary determines that sufficient grounds have not been proven
198 | the Judiciary shall dismiss the petition. If the Judiciary determines that the sufficient grounds
199 | have been proven, the Judiciary shall forward the written findings to the Tribal Chair.

200 |
201 | **4.8. General Tribal Council Meeting – Oneida Business Committee**

202 | 4.8-1. *Special Meeting.* ~~Upon receipt of~~ Within forty-five (45) calendar days of receiving the
203 | findings from the Judiciary, ~~the Tribal Chair shall call~~ a special General Tribal Council meeting
204 | shall be held to consider the findings ~~to be held within forty five (45) calendar days after receipt~~
205 | ~~of the Judiciary findings.~~

206 | 4.8-2. *Right to address the Council.* An ~~elected official~~ Oneida Business Committee member
207 | whose removal is sought shall have the right to address the General Tribal Council personally.

208 | 4.8-3. *Determination.* ~~An elected official~~ An Oneida Business Committee member may only be
209 | removed from office upon the affirmative vote of a two-thirds (2/3) majority of the General
210 | Tribal Council at a meeting called for the purpose of considering the removal.

211 | 4.8-4. *Quorum.* If the meeting of the General Tribal Council fails to obtain a quorum, the
212 | removal petition shall be dismissed.

213 |
214 | **4.9. Removal – Elected Official**

215 | 4.9-1. An elected official may be subject to removal either by petition or by request of the board,
216 | committee or commission, which shall be filed within thirty (30) days after:

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

219 | 4.9-2. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly notify
220 | the elected official sought to be removed that a petition or removal request has been filed seeking
221 | his or her removal by providing a copy of the uncertified petition or removal request.

222 | 4.9-3. Petitions. Any eligible voter may file a petition with the Tribal Secretary seeking the
223 | removal of an elected official. No petition shall request the removal of more than one (1) elected
224 | official. The petition shall state with particularity the facts upon which it is based and the
225 | specific grounds for removal, in not more than two hundred (200) words, and must be signed by
226 | fifty (50) or more eligible voters or a number equal to at least thirty (30) percent of the vote cast
227 | in the previous general election, whichever is greater. A petition may not be amended after it is
228 | filed with the Tribal Secretary.

- 229 | (a) The petition shall contain, in ink:
230 | (1) The appropriate lines for the eligible voter's:
231 | (A) Printed name;
232 | (B) Signature;
233 | (C) Street address; and
234 | (D) Enrollment number.

235 (2) An oath verifying the fact that:

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

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

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

241 (b) The Tribal Secretary shall promptly submit such petition to the Oneida Tribal
242 Enrollment Department which shall, within five (5) business days, determine whether the
243 petition contains the requisite number of signatures of eligible voters.

244 (1) If the Enrollment Department determines that a petition does not contain the
245 requisite number of signatures, the Tribal Secretary shall so certify to the Oneida
246 Business Committee and file the petition without taking further action, and the
247 matter shall be at an end. No additional names may be added to the petition, and
248 the petition shall not be used in any other proceeding.

249 (2) If the Enrollment Department determines that a petition contains the requisite
250 number of signatures, the Tribal Secretary shall promptly cause a certified copy of
251 the petition to be served upon the elected official sought to be removed and
252 forward a copy of the same to the Judiciary.

253 4.9-4. Removal Requests. A board, committee, or commission may file a removal request with
254 the Tribal Secretary for one of its members after adoption of a majority vote of the board,
255 committee or commission regarding the removal request. No removal request shall request the
256 removal of more than one (1) elected official. The removal request shall state with particularity
257 the facts upon which it is based and the specific grounds for removal, in not more than two
258 hundred (200) words. A removal request may not be amended after it is filed with the Tribal
259 Secretary.

260 (a) Upon verification by the Tribal Secretary of the action the board, committee or
261 commission adopting the removal request, the Tribal Secretary shall promptly cause a
262 certified copy of the removal request to be served upon the elected official sought to be
263 removed and forward a copy of the same to the Judiciary.

264 (b) If the Tribal Secretary determines that a removal request does not meet the
265 requirements of 4.9-4, the Tribal Secretary shall so certify to the Oneida Business
266 Committee and file the removal request without taking further action, and the matter shall
267 be at an end.

268
269 **4.10. Preliminary Review – Elected Official**

270 4.10-1. The Judiciary, upon receipt of the petition or removal request shall schedule a
271 preliminary review, to take place within twenty (20) calendar days, to determine whether the
272 allegations set forth in the petition or removal request would constitute sufficient grounds for
273 removal. The Judiciary may request that the parties submit arguments in writing, and the parties
274 may be represented by counsel.

275 4.10-2. If the Judiciary determines that a petition or removal request does not allege sufficient
276 grounds for removal, the petition or removal request shall be dismissed. If the Judiciary
277 determines that the petition or removal request alleges sufficient grounds for removal, the
278 Judiciary shall conduct a hearing under 4.11.

279 4.10-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the
280 petition or the validity of the action of the board, committee or commission adopting a removal

281 request may be reviewed by the Judiciary upon motion of the elected official whose removal is
282 sought. The motion shall be filed within twenty (20) calendar days of service of the certified
283 copy of the petition or removal request upon the elected official sought to be removed. The
284 motion shall be in writing and the grounds limited to one (1) or more of the following:

- 285 (a) the authenticity of the signatures on a petition;
- 286 (b) whether the signature on the petition is that of an eligible voter; or
- 287 (c) the validity of the action taken by a board, committee or commission in approving a
288 removal request.

289 4.10-4. The Judiciary review shall be conducted in the presence of the parties, who may be
290 represented by counsel during the review. Opportunity to present evidence and testimony shall
291 be provided. If the Judiciary determines that a petition contains less than the required number of
292 valid signatures, the petition shall be dismissed. If the Judiciary determines that a removal
293 request does not contain valid action by the board, committee or commission the removal request
294 shall be dismissed.

295 4.11. Hearing – Elected Official

296 4.11-1. *Rights of Elected Official at Hearing.* An elected official whose removal is sought shall
297 have the right to present witnesses on his or her behalf; to cross-examine adverse witnesses; and
298 to, at his or her expense, be represented by counsel of his or her choice.

299 4.11-2. *Burden of Proof.* A person seeking the removal of an elected official shall have the
300 burden of proving by clear and convincing evidence that ground(s) for removal exist.

301 4.11-3. *Findings.* The Judiciary shall, within twenty (20) calendar days after the preliminary
302 review has been completed, determine whether each allegation of the petition or removal request
303 has been proven by clear and convincing evidence, and whether such allegations constitute
304 sufficient grounds for removal under 4.4-2. If the Judiciary determines that sufficient grounds
305 have not been proven the Judiciary shall dismiss the petition or removal request. If the Judiciary
306 determines that the sufficient grounds have been proven, the Judiciary shall forward the written
307 findings to the Tribal Chair.

308 4.12. Oneida Business Committee Meeting – Elected Official

309 4.12-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the findings from the
310 Judiciary, a special Oneida Business Committee meeting shall be held to consider the findings.

311 4.12-2. *Right to address the Oneida Business Committee.* An elected official whose removal is
312 sought shall have the right to address the Oneida Business Committee personally.

313 4.12-3. *Determination.* An elected official may only be removed from office upon the
314 affirmative vote of six (6) members of the Oneida Business Committee at a meeting called for
315 the purpose of considering the removal.

316 4.12-4. *Quorum.* If the meeting of the Oneida Business Committee fails to obtain a quorum, the
317 removal request shall be dismissed.

318 *End.*

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

Chapter 4 REMOVAL LAW

Kwah Oná luwalihutákwás Kayanláhsla Just when they will remove him our kind of laws

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

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- 1
2 4.1. Purpose and Policy
3 4.1-1. The purpose of this Law is to govern the removal of persons elected to serve on the
4 Oneida Business Committee and on boards, committees and commissions of the Oneida Tribe of
5 Indians of Wisconsin.
6 4.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to provide an orderly and fair
7 process for the removal of persons elected to serve on the Oneida Business Committee and on
8 boards, committees and commissions.
9
10 **4.2. Adoption, Amendment, Repeal**
11 4.2-1. This Law is adopted by the General Tribal Council by Resolution GTC-01-09-06-A and
12 amended by Resolution BC-05-28-14-B and by Resolution GTC_____
13 4.2-2. This Law may be amended or repealed by the General Tribal Council only pursuant to the
14 procedures set out in the Legislative Procedures Act.
15 4.2-3. Should a provision of this Law or the application thereof to any person or circumstances
16 be held as invalid, such invalidity shall not affect other provisions of this law which are
17 considered to have legal force without the invalid portions.
18 4.2-4. In the event of a conflict between a provision of this Law and a provision of another law,
19 the provisions of this Law shall control. Provided that, this Law repeals the following:
20 (a) GTC-6-13-79 (Adoption of Ordinance for the Removal of Oneida Tribal Business
21 Committee Members)
22 (b) BC-3-8-85-A (Adoption of Legislatively Appointed Committee Removal Ordinance)
23 (c) BC-1-03-96-B (BC Adoption of Removal Law)
24 (d) GTC-1-17-98-A (GTC Adoption of Removal Law)
25 4.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of
26 Wisconsin.
27
28 **4.3. Definitions**
29 4.3-1. This section shall govern the definitions of words or phrases used within this Law. All
30 words not defined herein shall be used in their ordinary and everyday sense.
31 (a) “Counsel” means an attorney or advocate.
32 (b) “Elected official” means any person elected to a position on a board, committee or
33 commission of the Oneida Tribe of Indians of Wisconsin and does not include the Oneida
34 Business Committee.

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

38 (d) “Tribe” means the Oneida Tribe of Indians of Wisconsin.
39

40 **4.4. Grounds for Removal**

41 4.4-1. *Oneida Business Committee*. A member of the Oneida Business Committee may be
42 removed from office for any of the following reasons:

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

50 4.4-2. *Elected Official*. An elected official may be removed from office for any of the following
51 reasons:

- 52 (a) failure to attend four (4) regularly scheduled meetings without a written explanation;
- 53 (b) failure to attend fifty percent (50%) of an entity’s regular scheduled meetings within
54 a twelve (12) month period for any reason;
- 55 (c) violation of the by-laws, operating agreements, laws, regulations or Standard
56 Operating Procedures of the board, committee or commission;
- 57 (d) intentional mis-use of Tribal funds;
- 58 (e) alcohol use while performing official responsibilities or use of illegal drugs at any
59 time;
- 60 (f) if he or she no longer meets the qualifications for office;
- 61 (g) violating a Tribal law which specifies removal as a penalty; or
- 62 (h) felony conviction while in office.

63 **4.5. Petition – Oneida Business Committee**

64 4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an
65 Oneida Business Committee member. No petition shall request the removal of more than one (1)
66 Oneida Business Committee member. The petition shall state with particularity the facts upon
67 which it is based and the specific grounds for removal, in not more than two hundred (200)
68 words, and must be signed by fifty (50) or more eligible voters or a number equal to at least
69 thirty (30) percent of the votes cast in the previous general election, whichever is greater. A
70 petition may not be amended after it is filed with the Tribal Secretary.

71 4.5-2. The petition shall be filed within thirty (30) days after the date the first signature is
72 obtained on the petition.
73

74 4.5-3. The petition shall contain, in ink:

- 75 (a) The appropriate lines for the eligible voter’s:
 - 76 (1) Printed name;
 - 77 (2) Signature;
 - 78 (3) Street address; and
 - 79 (4) Enrollment number.
- 80 (b) An oath verifying the fact that:

- 81 (1) The circulator witnessed each person sign the petition;
82 (2) Each signature appearing thereon is the genuine signature of the person it
83 purports to be; and
84 (3) The petition was signed in the presence of the witness on the date indicated.

85 4.5-4. Upon receipt of a petition, the Tribal Secretary shall promptly:
86 (a) Submit such petition to the Oneida Tribal Enrollment Department which shall, within
87 five (5) business days, determine whether the petition contains the requisite number of
88 signatures of eligible voters; and

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

91 4.5-5. If the Enrollment Department determines that the petition does not contain the requisite
92 number of signatures, the Tribal Secretary shall so certify to the Oneida Business Committee and
93 file the petition without taking further action, and the matter shall be at an end. No additional
94 names may be added to the petition, and the petition shall not be used in any other proceeding.

95 4.5-6. If the Enrollment Department determines that the petition contains the requisite number of
96 signatures, then the Tribal Secretary shall promptly cause a certified copy of the petition to be
97 served upon the Oneida Business Committee member sought to be removed and forward a copy
98 of the same to the Judiciary.

99 4.5-7. In the event the removal of the Tribal Secretary is sought, the Tribal Vice Chairperson
100 shall perform the duties assigned to the Secretary under this Law.

101

102 **4.6. Preliminary Review – Oneida Business Committee**

103 4.6-1. The Judiciary, upon receipt of the petition shall schedule a preliminary review, to take
104 place within twenty (20) calendar days, to determine whether the allegations set forth in the
105 petition would constitute sufficient grounds for removal. The Judiciary may request that the
106 parties submit arguments in writing, and the parties may be represented by counsel.

107 4.6-2. If the Judiciary determines that a petition does not allege sufficient grounds for removal,
108 the petition shall be dismissed. If the Judiciary determines that the petition alleges sufficient
109 grounds for removal, the Judiciary shall conduct a hearing under 4.7.

110 4.6-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the
111 petition may be reviewed by the Judiciary upon motion of the Oneida Business Committee
112 member whose removal is sought. The motion shall be filed within twenty (20) calendar days of
113 service of the certified copy of the petition upon the Oneida Business Committee member sought
114 to be removed. The motion shall be in writing and the grounds limited to:

115 (a) the authenticity of the signatures; and

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

117 4.6-4. The Judiciary review shall be conducted in the presence of the parties, who may be
118 represented by counsel during the review. Opportunity to present evidence and testimony shall
119 be provided. If the Judiciary determines that a petition contains less than the required number of
120 valid signatures, the petition shall be dismissed.

121

122 **4.7. Hearing – Oneida Business Committee**

123 4.7-1. *Rights of Oneida Business Committee Member at Hearing.* An Oneida Business
124 Committee member whose removal is sought shall have the right to present witnesses on his or
125 her behalf; to cross-examine adverse witnesses; and to, at his or her expense, be represented by
126 counsel of his or her choice.

127 4.7-2. *Burden of Proof.* A person seeking the removal of an Oneida Business Committee
128 member shall have the burden of proving by clear and convincing evidence that ground(s) for
129 removal exist.

130 4.7-3. *Findings.* The Judiciary shall, within twenty (20) calendar days after the preliminary
131 review has been completed, determine whether each allegation of the petition has been proven by
132 clear and convincing evidence, and whether such allegations constitute sufficient grounds for
133 removal under 4.4-1. If the Judiciary determines that sufficient grounds have not been proven
134 the Judiciary shall dismiss the petition. If the Judiciary determines that the sufficient grounds
135 have been proven, the Judiciary shall forward the written findings to the Tribal Chair.

136

137 **4.8. General Tribal Council Meeting – Oneida Business Committee**

138 4.8-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the findings from the
139 Judiciary, a special General Tribal Council meeting shall be held to consider the findings.

140 4.8-2. *Right to address the Council.* An Oneida Business Committee member whose removal is
141 sought shall have the right to address the General Tribal Council personally.

142 4.8-3. *Determination.* An Oneida Business Committee member may only be removed from
143 office upon the affirmative vote of a two-thirds (2/3) majority of the General Tribal Council at a
144 meeting called for the purpose of considering the removal.

145 4.8-4. *Quorum.* If the meeting of the General Tribal Council fails to obtain a quorum, the
146 removal petition shall be dismissed.

147

148 **4.9. Removal – Elected Official**

149 4.9-1. An elected official may be subject to removal either by petition or by request of the board,
150 committee or commission, which shall be filed within thirty (30) days after:

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

153 4.9-2. Upon receipt of a petition or removal request, the Tribal Secretary shall promptly notify
154 the elected official sought to be removed that a petition or removal request has been filed seeking
155 his or her removal by providing a copy of the uncertified petition or removal request.

156 4.9-3. *Petitions.* Any eligible voter may file a petition with the Tribal Secretary seeking the
157 removal of an elected official. No petition shall request the removal of more than one (1) elected
158 official. The petition shall state with particularity the facts upon which it is based and the
159 specific grounds for removal, in not more than two hundred (200) words, and must be signed by
160 fifty (50) or more eligible voters or a number equal to at least thirty (30) percent of the vote cast
161 in the previous general election, whichever is greater. A petition may not be amended after it is
162 filed with the Tribal Secretary.

163 (a) The petition shall contain, in ink:

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

- 165 (A) Printed name;
- 166 (B) Signature;
- 167 (C) Street address; and
- 168 (D) Enrollment number.

169 (2) An oath verifying the fact that:

- 170 (A) The circulator witnessed each person sign the petition;
- 171 (B) Each signature appearing thereon is the genuine signature of the
172 person it purports to be; and

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

175 (b) The Tribal Secretary shall promptly submit such petition to the Oneida Tribal
176 Enrollment Department which shall, within five (5) business days, determine whether the
177 petition contains the requisite number of signatures of eligible voters.

178 (1) If the Enrollment Department determines that a petition does not contain the
179 requisite number of signatures, the Tribal Secretary shall so certify to the Oneida
180 Business Committee and file the petition without taking further action, and the
181 matter shall be at an end. No additional names may be added to the petition, and
182 the petition shall not be used in any other proceeding.

183 (2) If the Enrollment Department determines that a petition contains the requisite
184 number of signatures, the Tribal Secretary shall promptly cause a certified copy of
185 the petition to be served upon the elected official sought to be removed and
186 forward a copy of the same to the Judiciary.

187 4.9-4. *Removal Requests.* A board, committee, or commission may file a removal request with
188 the Tribal Secretary for one of its members after adoption of a majority vote of the board,
189 committee or commission regarding the removal request. No removal request shall request the
190 removal of more than one (1) elected official. The removal request shall state with particularity
191 the facts upon which it is based and the specific grounds for removal, in not more than two
192 hundred (200) words. A removal request may not be amended after it is filed with the Tribal
193 Secretary.

194 (a) Upon verification by the Tribal Secretary of the action the board, committee or
195 commission adopting the removal request, the Tribal Secretary shall promptly cause a
196 certified copy of the removal request to be served upon the elected official sought to be
197 removed and forward a copy of the same to the Judiciary.

198 (b) If the Tribal Secretary determines that a removal request does not meet the
199 requirements of 4.9-4, the Tribal Secretary shall so certify to the Oneida Business
200 Committee and file the removal request without taking further action, and the matter shall
201 be at an end.

202 **4.10. Preliminary Review – Elected Official**

204 4.10-1. The Judiciary, upon receipt of the petition or removal request shall schedule a
205 preliminary review, to take place within twenty (20) calendar days, to determine whether the
206 allegations set forth in the petition or removal request would constitute sufficient grounds for
207 removal. The Judiciary may request that the parties submit arguments in writing, and the parties
208 may be represented by counsel.

209 4.10-2. If the Judiciary determines that a petition or removal request does not allege sufficient
210 grounds for removal, the petition or removal request shall be dismissed. If the Judiciary
211 determines that the petition or removal request alleges sufficient grounds for removal, the
212 Judiciary shall conduct a hearing under 4.11.

213 4.10-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the
214 petition or the validity of the action of the board, committee or commission adopting a removal
215 request may be reviewed by the Judiciary upon motion of the elected official whose removal is
216 sought. The motion shall be filed within twenty (20) calendar days of service of the certified
217 copy of the petition or removal request upon the elected official sought to be removed. The
218 motion shall be in writing and the grounds limited to one (1) or more of the following:

- 219 (a) the authenticity of the signatures on a petition;
220 (b) whether the signature on the petition is that of an eligible voter; or
221 (c) the validity of the action taken by a board, committee or commission in approving a
222 removal request.

223 4.10-4. The Judiciary review shall be conducted in the presence of the parties, who may be
224 represented by counsel during the review. Opportunity to present evidence and testimony shall
225 be provided. If the Judiciary determines that a petition contains less than the required number of
226 valid signatures, the petition shall be dismissed. If the Judiciary determines that a removal
227 request does not contain valid action by the board, committee or commission the removal request
228 shall be dismissed.

229

230 **4.11. Hearing – Elected Official**

231 4.11-1. *Rights of Elected Official at Hearing.* An elected official whose removal is sought shall
232 have the right to present witnesses on his or her behalf; to cross-examine adverse witnesses; and
233 to, at his or her expense, be represented by counsel of his or her choice.

234 4.11-2. *Burden of Proof.* A person seeking the removal of an elected official shall have the
235 burden of proving by clear and convincing evidence that ground(s) for removal exist.

236 4.11-3. *Findings.* The Judiciary shall, within twenty (20) calendar days after the preliminary
237 review has been completed, determine whether each allegation of the petition or removal request
238 has been proven by clear and convincing evidence, and whether such allegations constitute
239 sufficient grounds for removal under 4.4-2. If the Judiciary determines that sufficient grounds
240 have not been proven the Judiciary shall dismiss the petition or removal request. If the Judiciary
241 determines that the sufficient grounds have been proven, the Judiciary shall forward the written
242 findings to the Tribal Chair.

243

244 **4.12. Oneida Business Committee Meeting – Elected Official**

245 4.12-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the findings from the
246 Judiciary, a special Oneida Business Committee meeting shall be held to consider the findings.

247 4.12-2. *Right to address the Oneida Business Committee.* An elected official whose removal is
248 sought shall have the right to address the Oneida Business Committee personally.

249 4.12-3. *Determination.* An elected official may only be removed from office upon the
250 affirmative vote of six (6) members of the Oneida Business Committee at a meeting called for
251 the purpose of considering the removal.

252 4.12-4. *Quorum.* If the meeting of the Oneida Business Committee fails to obtain a quorum, the
253 removal request shall be dismissed.

254

255 *End.*

256

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