

Oneida Nation

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Oneida, WI 54155

BC Resolution # 10-28-20-B

Discretion Regarding the Transfer of Cases under the Children's Code

- WHEREAS,** the Oneida Nation 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 Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Business Committee adopted the Children's Code through resolution BC-07-26-17-J titled, "*Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy*" for the purpose of exercising the fundamental right of sovereignty and self-determination by setting forth procedures to provide for the welfare, care, and protection of Oneida children who are in need of protection or services through the preservation of the family unit; and
- WHEREAS,** resolution BC-07-26-17-J also set forth a process for the implementation of the Children's Code which addressed the transfer of cases from the jurisdiction of Brown and Outagamie County to the jurisdiction of the Oneida Family Court; and
- WHEREAS,** resolution BC-07-26-17-J provided the following guidance as to the transfer of cases, "The following determination has been made for the transfer of cases from Brown and Outagamie County jurisdiction to the jurisdiction of the Oneida Family Court:
- a. When the Children's Code becomes effective all new cases in Brown and Outagamie County shall begin in or transfer to Oneida Family Court.
 - b. Any case in Brown and Outagamie County that has started within the most recent three (3) months may transfer to the Oneida Family Court.
 - c. All other current cases may remain in Brown and Outagamie County, unless the Nation's Indian Child Welfare Department determines the case would be better suited in the Oneida Family Court or another party motions the Court to transfer jurisdiction;" and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-10-24-18-A titled "*Amending Resolution BC-07-26-17-J to Delay the Implementation of the Children's Code*" which changed the date by which the Children's Code would become effective from January 6, 2019 to October 1, 2019; and
- WHEREAS,** the Oneida Business Committee then adopted resolution BC-10-23-19-B titled, "*Authorizing Discretion Regarding Implementation of Children's Code, Chapter 708*" which

set forth an additional implementation delay regarding the transfer of Children In Need of Protection and Services cases until 161 Agreements with Brown and Outagamie Counties were approved because the Nation wanted to assure that funding for out-of-home placement was accessible before cases were transferred; and

WHEREAS, resolution BC-10-23-19-B amended the provision regarding the transfer of cases in resolution BC-07-26-17-J, and provided the following, "The following determination has been made for the transfer of cases from Brown and Outagamie County jurisdiction to the jurisdiction of the Oneida Family Court:

- a. When the Children's Code becomes effective and the Act 161 Agreements with Brown and Outagamie Counties are approved, the Indian Child Welfare Department shall either begin all new cases in Brown and Outagamie County in the Oneida Family Court or shall seek to transfer all new cases in Brown and Outagamie County to the Oneida Family Court.
- b. Any case in Brown and Outagamie County that has started within the most recent three (3) months may transfer to the Oneida Family Court.
- c. All other current cases may remain in Brown and Outagamie County, unless the Nation's Indian Child Welfare Department determines the case would be better suited in the Oneida Family Court or another party motions the Court to transfer jurisdiction;" and

WHEREAS, on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" regarding the COVID-19 pandemic, which declared a Public Health State of Emergency for the Nation until April 12, 2020, which was then subsequently extended through November 13, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, and BC-10-08-20-A; and

WHEREAS, on March 20, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Suspension of Transfer of Cases in Resolution #BC-07-26-17-J, Adoption of the Children's Code and the Nation's Indian Child Welfare Act Policy*" declaration which amended resolution BC-07-26-17-J regarding the transfer of cases to the Oneida Family Court based on the COVID-19 pandemic and provided the following: "The following determination has been made for the transfer of cases from Brown and Outagamie County jurisdiction to the jurisdiction of the Oneida Family Court:

- (a) When the Children's Code becomes effective all new cases in Brown and Outagamie County shall begin in or transfer to Oneida Family Court unless such commencement or transfer would be impracticable under the circumstances of the case as decided by the Nation's Indian Child Welfare Department and the Nation's Child Welfare attorney;" and

WHEREAS, due to the uncertain nature of the COVID-19 pandemic, including its financial constraints on the Nation and potential effect on the Indian Child Welfare Department's staffing levels to last beyond the Public Health State of Emergency, the Indian Child Welfare Department has recommended that the discretion on the transfer of cases provided for in the March 20, 2020, declaration be adopted on a permanent basis; and

NOW THEREFORE BE IT RESOLVED, that this resolution shall supersede all prior resolutions in conflict with the directives set forth in this resolution.

BE IT FINALLY RESOLVED, the Nation's Indian Child Welfare Department and Child Welfare attorney shall begin all new Children in Need of Protection and Services cases occurring in Brown and Outagamie County in the Oneida Family Court or seek the transfer of the case to the Oneida Family Court under the Children's Code unless such commencement or transfer would be impracticable under the circumstances of the case as decided by the Nation's Indian Child Welfare Department and the Nation's Child Welfare attorney.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 7 members were present at a meeting duly called, noticed and held on the 28th day of October, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 6 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Liggins, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."