Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE

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

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.

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

BC Resolution # 1-12-05-A

Adoption of Open Records and Open Meetings Law

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 General Tribal Council; and

WHEREAS, the release of Tribal records is currently governed by the Oneida Nation Records Management Law (Records Law); and

WHEREAS, under the Records Law, most Tribal records are considered confidential and access to such records is centralized with the Tribal Secretary; and

WHEREAS, the Oneida Business Committee believes that the Records Law is too restrictive and there needs to be a law requiring open meetings; and

WHEREAS, the Oneida Business Committee believes that a policy of open government, with limited exceptions, is a fundamental component of a successful democracy; and

WHEREAS, a public hearing was held August 10, 2004, for the adoption of the Open Records and Open Meetings Law.

NOW, THEREFORE BE IT RESOLVED, that the attached Open Records and Open Meetings Law is hereby adopted.

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. 8 members were present at a meeting duly called, noticed and held on the 12th day of January , 2005; that the foregoing resolution was duly adopted at such meeting by a vote of 7 members for; 0 members against; and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

Julie Barton, Tribal Secretary
Oneida Business Committee

Chapter 7
OPEN RECORDS AND OPEN MEETINGS LAW

SUB-CHAPTER OPEN RECORDS

7.1-1. Purpose and Policy
7.2-1. Adoption, Amendment, Repeal
7.3-1. Definitions
7.4-1. Limitations Upon Access and Exceptions
7.5-1. Categories of Public Information; Examples
7.6-1. Legal Custodians
7.7-1. Access to Records
7.8-1. Fees
7.9-1. Time for Compliance and Procedures
7.10-1 Records Management
7.11-1 Record Destruction
7.12-1 Elected Official Responsibilities
7.13-1. Personal Data Subject to Challenge; Authority Corrections
7.14-1. Enforcement

SUB-CHAPTER II OPEN MEETINGS

7.15-1 Purpose and Policy
7.16-1 Definitions
7.17-1 Public Notice Business Committee
7.18-1 Public Notice Other Governmental Bodies
7.19-1 Recording and Photographing
7.20-1 Exceptions
7.21-1. Enforcement

SUB-CHAPTER I OPEN RECORDS

7.1-1. Purpose and Policy. 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. The Oneida Tribe of Indians of Wisconsin 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 members and Oneida 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.

7.1-2. 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 specifically included under 7.3-9. Any waivers of sovereign immunity contained in this law are strictly limited to the enforcement actions contained in 7.14-3 and 7.21-1.

7.2-1. Adoption, Amendment, Repeal. This law is adopted by the Oneida Business Committee by resolution #1-15-05-B under the authority of Article IV of the Oneida Constitution and shall be effective May 1, 2005.

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.

7.2-3. Should a provision of this law or the application thereof to any person or circumstance 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. The following is superceded by this law:

(a) BC-8-30-95-D, adoption of the Oneida Nation Records Management Law.

7.3-1. Definitions. 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.

7.3-2. "Authority" means any of the following having custody of a record: a governmental body, elected official, council, department, division, business unit, Tribal commission or court of law.

7.3-3. "Legal custodian" means any person who is responsible for the care and custody of documents.
7.3-4. "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.
7.3-5. "Governmental Body" means any department, division, board, committee, commission or judicial body of the Oneida Tribe of Indians of Wisconsin.
7.3-6. "Oneida Tribe" means the Oneida Tribe of Indians of Wisconsin.
7.3-7. "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.
7.3-8. "Privileged Attorney/Client Information" means records pertaining to communications between attorneys and their clients
7.3-9. "Public" means any enrolled Oneida Tribal Member, or any Oneida Tribal Employee who has a work related need for a record.
7.3-10. "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.
7.3-11. "Requester" means any person defined as "public" in section 7.3-9, who requests inspection or copies of a record. A 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 for whom he or she has not been denied physical placement and the record is otherwise accessible to the person by law.
7.3-12. "Trade Secret" means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

(a) 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.

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

7.3-13. "Work related" means necessary to perform a duty or responsibility in connection with employment.

7.4-1. Limitations Upon Access and Exceptions. 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 Oneida 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 Oneida 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) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated. The exemption provided in this paragraph extends to all those records of officers and agencies of the Business Committee that pertain to the preparation of legislative documents.

(g) Inter-Office Communications relating to proposals or matters which have not been introduced for consideration to the Oneida Business Committee 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.

(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 Internal Investigations Department in the Oneida Gaming Enterprise is hereby authorized to promulgate regulations regarding information developed, created or located during a background investigation required by the Oneida Gaming Enterprise under adopted laws and regulations.

Provided that any regulation adopted regarding this issue shall not bar any employee from viewing the contents of their investigatory file.

7.4-5. Student Records. The release 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.

7.5-1. Categories of Public Information; Examples. 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 Oneida 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 policy statement or interpretation that has been adopted or issued by a governmental body, except for records pertaining to communications between attorneys and their clients.

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

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

7.6-1. Legal custodians.

(a) An elected 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.

(b) The chairperson of a Governmental Body, or the designee of the chairperson, is the legal custodian of the records of the Governmental Body.

(c) Every authority not specified in subsections (a) and (b) shall designate in writing one 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.

(d) An individual may be subject to disciplinary action, including removal for an elected or appointed official, if he or she releases records which are barred from release under 4-1.

7.7-1. Access to Records.

(a) RIGHT TO INSPECTION. Except as otherwise provided by law any requester has a right to inspect any record.

(b) WRITTEN RECORDS. Except as otherwise provided by law, any requester has a right to inspect a record and 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 having custody of the record may, at its option, permit the requester to photocopy the record or provide the requester with a copy substantially as readable as the original.

(c) AUDIO TAPE RECORDING. Except as otherwise provided by law, any requester has

a right to receive from an authority having custody of a record which is in the form of a comprehensible audio tape recording, a copy of the tape recording substantially as audible as the original. The authority may instead provide a transcript of the recording to the requester if he or she requests.

(d) VIDEO TAPE. Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video tape recording, a copy of the tape recording substantially as good as the original.

(e) 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 under 7.4-1(j) 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 if the record or information is otherwise subject to public inspection and copying under this subsection.

(f) OTHER. Except as otherwise provided by law, any requester has a right to inspect any record not specified in subsections (b) through (e) 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.

(g) This section shall not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

(h) A request is deemed sufficient if it reasonably describes the requested record or the information requested. 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.

(i) The custodian of a record may request proof of Oneida Tribal membership or proof that a requester is an Oneida 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 section 7.8-1(f). 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.

(j) A legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

7.8-1. Fees. 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.

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

(b) 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.

(c) 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.

(d) 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.

(e) Mailing and Shipping. An authority may impose a fee upon a requester for the costs of mailing or shipping of records.

(f) Prepayment of Fee. An authority may require prepayment by a requester of any fee or fees if the total amount exceeds $5.

7.9-1. 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.

7.10-1. Records Management. This section shall govern the storage of the records of the Oneida Tribe and its agencies.

7.10-2. There is hereby created a Records Management Office charged with collecting, storage, and disposing of records created by the Oneida Tribe and its agencies.

7.10-3. The Records Management Office is delegated authority under this law to create regulations governing the management of records placed in the care of that office regarding:

(a) Collection of all records.

(b) Storage of all records.

(c) Disposal of all records.

7.11-1. 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 60 days after the date that the request is denied.

7.12-1. Elected Official Responsibilities. No elected official is responsible for the record of any other elected official unless he or she has possession of the record of that other official.

7.13-1. Personal Data Subject to Challenge; authority Corrections.

(a) 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 under section 7.7-1 and the individual notifies the authority, in writing, of the challenge. After receiving the notice, the authority shall do one of the following:

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

(2) 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.

(b) 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.

7.14-1. Enforcement. A requester may file a written appeal to the appropriate Area Manager

clearly identifying what records are being sought within five (5) business days of being denied a record by a custodian. In the event that there is not an Area Manager, the appeal may be filed with the Tribal Secretary.
7.14-2. 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 of receipt of the requester's appeal.
7.14-3. The requester may bring an action, within five (5) business days of receipt of the Area Manager's or Tribal Secretary's decision, petitioning the Oneida Appeals Commission to order release of the record.

SUB-CHAPTER II OPEN MEETINGS

7.15-1. Purpose and Policy. 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.
7.15-2. To implement and ensure the public policy herein expressed, all meetings of the Oneida Tribe shall be publicly held in places reasonably accessible to members of the Oneida Tribe and shall be open to members at all times unless other wise expressly provided by law.

7.16-1. Definitions. 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.
7.16-2. "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 Oneida Appeals Commission, when acting in an administrative capacity or deliberating a case, and the Oneida Gaming Commission are excluded from this definition.
7.16-3. "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.
7.16-4. "Open Session" means a meeting which is held in a place reasonably accessible to members of the public at all times.

7.17-1. Public Notice Business Committee. All meetings of the Business Committee shall be preceded by public notice and, except where otherwise provided, shall be held in open session.

(a) 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.

(b) 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.

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

7.18-1. Public Notice Other Governmental Bodies. 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.

(a) 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:

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

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

(3) At least 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.

7.19-1. Recording and Photographing. 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.

7.19-2. 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.

7.19-3. Exceptions may be granted by the Oneida Business Committee for non-Tribal news media coverage requests.

7.19-4. 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.

7.20-1. Exceptions. "Closed meeting sessions" (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.

7.21-1. Enforcement. Any Tribal member shall have the power to enforce the requirements of this subchapter by filing suit with the Oneida Appeals Commission within thirty (30) days after the violation arises. The Commission 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