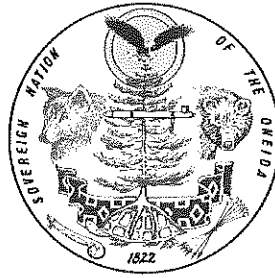


# Oneida Tribe of Indians of Wisconsin



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.

## BC Resolution 06-12-2013-F Revenue Allocation Plan FY 2013

- 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, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council, and
- WHEREAS,** the General Tribal Council adopted Resolution #05-10-08-A which approved a per capita payment of \$1,200.00 to every enrolled member of the Oneida Tribe of Indians of Wisconsin, in accordance with the Oneida Per Capita Ordinance, for Fiscal Years 2009-2013, and
- WHEREAS,** the General Tribal Council adopted Resolution #08-11-97A which approved a per capita payment of \$2,000.00 to each enrolled elder over the age of 62, in accordance with the Oneida Per Capita Ordinance, to begin in Fiscal Year 1998, and
- WHEREAS,** the General Tribal Council adopted Resolution #06-30-90A which approved a per capita payment of \$500.00 to each enrolled elder over the age of 65 in accordance with the Oneida Per Capita Ordinance, to begin in November 1994, and
- WHEREAS,** the Oneida Trust Committee is delegated responsibility to manage trust accounts in accordance with the Oneida Per Capita Ordinance, and
- WHEREAS,** the Oneida Trust/Enrollment Committee approved the attached Revenue Allocation Plan for Fiscal Year 2013 on June 4, 2013, and
- WHEREAS,** the Indian Gaming Regulatory Act states that net revenues from any Class II and III gaming activities conducted or licensed by any tribe may be used to make per capita payments to members of the tribe only if (1) the tribe has prepared a Plan to allocate revenues for authorized uses and (2) the Plan is approved by the United States Assistant Secretary of the Interior as adequate, and
- WHEREAS,** the Revenue Allocation Plan for Fiscal Year 2013 ensures that not more than fifty percent (50%) of the net gaming revenues shall be used for per capita payments to members, and
- WHEREAS,** the attached Revenue Allocation Plan for Fiscal Year 2013 is in compliance with the Indian Gaming Regulatory Act, 25 U.S.C. 2701, *et seq.* as the Plan demonstrates that the Oneida Tribe is dedicating a significant source of net gaming revenue for economic and governmental purposes.

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee hereby approves and adopts the attached Revenue Allocation Plan for Fiscal Year 2013, and

**BE IT FURTHER RESOLVED,** that upon adoption by the Oneida Business Committee, the attached Revenue Allocation Plan for Fiscal Year 2013 and this resolution shall be presented to the United States Assistant Secretary of the Interior for review and approval according to the Indian Gaming Regulatory Act.

### 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 12<sup>th</sup> day of June 2013; that the foregoing 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.

A handwritten signature in black ink that reads "Patricia Hoeft".

Patricia Hoeft, Tribal Secretary  
Oneida Business Committee

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

# ONEIDA TRIBE OF INDIANS OF WISCONSIN

## Revenue Allocation Plan Fiscal Year 2013

### Section I. Resolution and Repeal of Inconsistent Legislation

This Revenue Allocation Plan ("Plan") was adopted pursuant to Oneida Business Committee Resolution 06-12-2013-F. With the exception of the Constitution of the Oneida Tribe of Indians of Wisconsin ("Oneida Tribe") and the Gaming Compact of 1991 and its applicable amendments entered into by the Oneida Tribe and State of Wisconsin, this Plan shall govern the allocation of available net revenues from tribally owned gaming enterprises including per capita distributions to qualified members of the Oneida Tribe.

### Section II. Policy and Legislative History

This Plan is in compliance with the Indian Gaming Regulatory Act of 1988 [25 U.S.C. § 2701, specifically, § 2710(b)(3)A-D ("IGRA") and all other applicable federal law. The Oneida Tribe shall use revenues generated by Tribal gaming establishments primarily to strengthen the Tribal government, Tribal self-sufficiency and to support Tribal economic development. The Oneida Tribe shall ensure that tribal governmental operations and programs and tribal economic development shall receive the necessary financial support from net gaming revenues prior to distributing such revenues for other purposes.

The Oneida Tribe is committed to providing for the long range security of itself and its tribal members. Accordingly, the Oneida Tribe shall ensure that net gaming revenues are allocated toward investments, programs and projects that impact not only present needs, but also anticipate future needs. In addition, the Oneida Tribe shall ensure that investments, programs and projects funded by net gaming revenues are aimed toward improving tribal conditions and the life opportunities of tribal members for the next seven generations.

The Oneida Tribe retains the inherent sovereign right to determine the best interests of its minor tribal members by providing for their future welfare by placing monies into trust for the benefit of those minor tribal members. The Oneida Tribe shall provide for the future of minors while encouraging tribal member parents to provide for the immediate living needs of their children as is their responsibility.

The Oneida Tribe is committed to the education of its children. Specifically, the Oneida Tribe seeks to increase the high school graduation rates of tribal members, and encourage its tribal members to pursue degrees in colleges, universities or vocational schools. Currently, the Oneida Tribe offers financial assistance to every eligible tribal member for educational purposes.

Pursuant to General Tribal Council Resolution 65-10-08-A, a per capita payment in the amount of \$1,200.00 will be distributed to every enrolled member of the Oneida Tribe for Fiscal Years 2009 through 2013. The per capita distribution will be referred to as the "Per Capita Payment."

Pursuant to General Tribal Council Resolution 608-11-97A, a per capita payment in the amount of \$2,000.00 will be distributed to every enrolled elder 62 and over to begin in Fiscal Year 1998. Pursuant to General Tribal Council Resolution 66-90-A, "To begin in November 1994 to make a per capita payment of \$500 once each year, with \$6 built into the schedule, to all living persons over the age of 65 by 10/31 of that year." This inflationary increase began in fiscal year 2003 and was added every odd year thereafter, in addition to the \$2,000 authorized by Resolution 608-11-97A. The Oneida Trust Committee recently took action to modify the \$6 inflationary increase so that it will now be applied every three years beginning in 2014. The \$6 inflationary increase will be applied every third year thereafter until such time as the Oneida Trust Committee designates a new schedule of payment. Both elderly per capita distributions will be referred to as the "Elderly Per Capita Payment." The aged 65 and over elderly per capita distribution pursuant to Resolution 66-30-90-A for fiscal year 2013 will be \$638.14.

The Per Capita Payment and Elderly Per Capita Payment are being made to offer financial assistance to all members of the Oneida Tribe regardless of their employment with the Oneida Tribe.

The Oneida Business Committee, acting in its capacity as the delegated governmental body of the Oneida Tribe, is adopting this tribal allocation plan in order to implement the above-referenced General Tribal Council Resolutions. Copies of these resolutions and forms are attached.

### **Section III. Use of Net Gaming Revenues; Tribal Governmental Operations and Programs**

- A.** The Oneida Tribe hereby allocates 24.42% of net gaming revenues in order to provide for supplemental funding for tribal governmental operations and programs. If it deems it necessary, the Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to revise and increase the percentage of net gaming revenues allocated to funding for tribal governmental operations and programs.
- B.** Tribal governmental operations and programs to be supplementarily funded by net gaming revenues under this Section shall include, but shall not be limited to, the following: tribal administration, capital improvements to tribal offices, tribal public works program, tribal planning program, tribal enrollment program, tribal community health representative, tribal health services, Indian Health Services clinic, Indian Child Welfare Act tribal program, tribal clean-up program, tribal education programs, school food service programs, tribal parenting program, summer youth workers' program, tribal library, tribal recreation program, tribal elderly program, veterans' symposium, tribal arts and crafts program and tribal cultural programs.

- C. The Oneida Business Committee forwarded the Fiscal Year 2013 budget to the General Tribal Council with delegation of budget revision authority to the Oneida Business Committee. Prior to the commencement of this fiscal year, the Oneida Business Committee received budget reports and requests from each tribal governmental operation and program listed in Section III.B. The budget reports detailed: past fiscal year revenues, projected revenues, revenue sources, including the amount of net revenues derived from gaming enterprises, past fiscal year expenditures and projected expenditures, together with a detailed accounting for expenditures. The budget reports also included budget requests including requests for supplemental funding from net gaming revenues allocated to funding for tribal governmental operations and programs.
- D. The Oneida Business Committee, after receiving all budget reports and requests under this Section, allocated those funds designated for tribal governmental operations and programs. This allocation occurred with the adoption of the Oneida Tribe's fiscal year budget. The Oneida Business Committee shall be the sole decision making body to any actions taken upon budget reports and requests and as to the allocation of funds designated for tribal governmental operations and programs as delegated by the General Tribal Council.
- E. The Oneida Business Committee disbursed those monies allocated to tribal governmental operations and programs in accordance with the Oneida Tribe's fiscal year budget referenced in paragraph D above. Any disbursements made here under by the receiving tribal governmental operation or program shall be handled in a manner consistent with the operation's or programs generally accepted accounting methods.
- F. Prior to the adoption of the Oneida Tribe's fiscal year budget, the Oneida Business Committee reviewed the budget reports and requests required in Paragraph C above for the prior fiscal year, and any other reports prepared in accordance with generally accepted accounting methods, to determine the actual amount of monies expended on tribal governmental operations and programs in the prior fiscal year together with the percentage of total net gaming revenues allocated to tribal governmental operations and programs in the prior fiscal year. Such review was reported to the General Tribal Council through Treasurer's Reports.

**Section IV. Use of Net Gaming Revenues; General Welfare of the Oneida Tribe and its Tribal Members**

- A. The Oneida Tribe hereby allocates **35.70%** of net gaming revenues in order to provide supplemental funding for the general welfare of the Oneida Tribe and its tribal members. If it deems it necessary, the Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to revise and increase the percentage of net gaming revenues allocated to funding for the general welfare of the Oneida Tribe and its tribal members.
- B. The Oneida Business Committee shall meet with their delegate or designee of tribal social services to consider the social and general welfare needs of tribal members and to receive needs assessments and budget reports and requests of any tribal social service program not included in Section III. These general welfare programs shall include, but shall not be limited to, utility assistance program, funeral assistance program, tribal housing assistance program, higher education program, elderly services, social services programs, health services and the food distribution program. The needs assessments and budget reports and requests shall be prepared in accordance with the requirements set forth in Section III. C., D. and F. above, except that the General Tribal Council or the Oneida Business Committee may waive the requirements set forth in Section III. F. above.

**Section V. Use of Net Gaming Revenues; Tribal Economic Development**

- A. The Oneida Tribe hereby allocates **16.19%** of net gaming revenues in order to provide funding for tribal economic development.
1. If it deems it necessary, the Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to revise and increase the percentage of net gaming revenues allocated to funding for tribal economic development.
  2. The General Tribal Council or the Oneida Business Committee acting at the direction of the General Tribal Council, may, in its discretion, allocate net gaming revenues allocated to funding for tribal governmental operations and programs, funding for the general welfare of the Oneida Tribe and its members, donations to charitable organizations, and funding of local government operations that have not been expended as of the close of this fiscal year to the purposes set forth in this Section.
- B. "Tribal economic development" shall include investment of net gaming revenues. Investments of net gaming revenues allocated to tribal economic development shall be made pursuant to an annual budget allocation for business development and pursuant to

an investment policy to be adopted by resolution of the General Tribal Council or the Oneida Business Committee. At a minimum, this investment policy shall provide:

1. That the net gaming revenues allocated to investment pursuant to Section V of the Revenue Allocation Plan shall be weighted toward investments that provide for the long term security of the Oneida Tribe and its tribal members.
  2. A description of the types of investments made;
  3. A percentage allocation of equities and bonds;
  4. Investment objectives to be reviewed on a quarterly basis by the Oneida Business Committee; and
  5. A list of investments that shall be excluded due to their lack of safety and liquidity.
- C. Investments of net gaming revenues allocated to tribal economic development shall be made with nationally recognized, reputable, and safe investment companies in accordance with the Oneida Tribe's goal toward long term economic security of itself and its tribal members. The Oneida Business Committee, in its discretion, may allocate the interest earned on investments made pursuant to this Section in accordance with the provisions of IGRA or any other applicable federal and tribal law(s).
- D. The Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to appropriate and expend net gaming revenues allocated to tribal economic development to fund proposed tribal economic development projects. Tribal economic development proposals shall be considered in accordance with existing procedures. The Oneida Business Committee acting at the direction of the General Tribal Council shall thereafter allocate those net gaming revenues designated for tribal economic development to the proposed economic development project as it deems necessary and feasible.
- E. The Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to appropriate and expend net gaming revenues allocated to tribal economic development to supplement funding for ongoing tribal economic development enterprises. Requests for supplemental funding for the Oneida Tribe's ongoing businesses and enterprises shall be considered in accordance with existing procedures. The Oneida Business Committee acting at the direction of the General Tribal Council shall thereafter allocate those net gaming revenues designated for tribal economic development to the ongoing business or enterprise as it deems necessary and feasible.

**Section VI. Use of Net Gaming Revenues; Donations to Charitable Organizations**

- A. The Oneida Tribe hereby allocates **0.08%** of net gaming revenues in order to provide funding for donations to charitable organizations.
- B. The Oneida Business Committee acting at the direction of the General Tribal Council shall consider requests for charitable donations under this Section. The Oneida Business Committee acting at the direction of the General Tribal Council may show a preference to such charitable donation requests that benefit tribal members or Indian people generally.

**Section VII. Use of Net Gaming Revenues; Funding of Local Government Operations**

- A. The Oneida Tribe hereby allocates **6.52%** of net gaming revenues in order to provide supplemental funding for local government operations.
- B. The Oneida Business Committee acting at the direction of the General Tribal Council shall have the authority to utilize the gaming revenues allocated to funding of local government operations to assist local city and county governments in projects and programs that affect the Oneida Tribe. The Oneida Business Committee may show a preference for such local government projects or programs that benefit tribal members or Indian people generally. The Oneida Business Committee shall receive or initiate proposals for projects or programs with local city or county governments and negotiate the terms of such projects or programs in light of funds available under this Section. To the extent that the local government projects or programs contributed to under this section benefit non-Indians, the Oneida Business Committee may require the local government to provide matching funds.

**Section VIII. Use of Net Gaming Revenues; "Per Capita Payment" and "Elderly Per Capita Payment"**

- A. In order to advance the personal health, safety and welfare of qualified tribal members, the Oneida Tribe hereby allocates **17.09%** to be paid to qualified tribal members. Pursuant to General Tribal Council Resolution 05-10-08-A, a per capita payment in the amount of \$1,200.00 will be distributed to or contributed in trust (as applicable) on behalf of every enrolled member for fiscal years 2010 through 2013. Pursuant to General Tribal Council Resolution 08-11-97A, a per capita payment in the amount of \$2,000.00 will be distributed to every enrolled elder aged 62 and over to begin in Fiscal Year 1998. Pursuant to General Tribal Council Resolution 06-30-90-A, a per capita payment in the amount of \$500.00 will also be distributed to every enrolled elder aged 65 and over. As authorized by Resolution 06-30-90-A, an additional \$60 may be built into the \$500 per capita payment made to qualifying elders, as was done in fiscal years 2003-2011. The Oneida Trust Committee recently took action to modify the \$60

inflationary increase so that it will now be applied every three years beginning in 2014. The 5% inflationary increase will be applied every third year thereafter until such time as the Oneida Trust Committee designates a new schedule of payment. The aged 65 and over elderly per capita distribution for fiscal year 2013 will be \$638.14.

In accordance with the United States Department of Interior's Rules and Regulations, Part 290-Tribal Revenue Allocation Plan, Vol. 65, No. 51, Reg. 14467 (March 17, 2000), and for purposes of this Plan, "per capita payment" shall mean those payments made or distributed to all tribal members, or, to identified groups of members, which are paid directly from the net revenues of gaming activity; no other commonly accepted or used definition of the term "per capita payment" affects the use of the term herein.

1. Per capita payments to qualified tribal members shall be made not later than September 30, 2013, for the FY 2013 payment, or as soon thereafter as is legally practicable based on the submission date to allow for the minimum time for regulatory review of the Tribal Allocation Plan.
2. The Elderly Per Capita Payment shall be made not later than September 30, 2013, for the FY 2013 payment, or as soon thereafter as is legally practicable based on the submission date to allow for the minimum time for regulatory review of the Tribal Allocation Plan.
3. Upon approval of this Plan, all net revenue designated for distribution as per capita payments shall be deposited into a low-risk interest bearing account with a federally insured financial institution prior to distribution. Interest earned prior to distribution on net gaming revenues deposited in this account shall be deposited into the Oneida Tribe's General Fund for future use at the discretion of the Oneida Business Committee as delegated by the General Tribal Council.

**B.** "Qualified tribal members" for purposes of the "Per Capita Payment" shall mean those individuals who are duly enrolled in the Oneida Tribe of Indians of Wisconsin pursuant to Article II of the Oneida Tribe's Constitution and the Oneida Membership Ordinance established by General Tribal Council Resolution 7-2-84-A. Individuals who have submitted their applications for membership to the Oneida Enrollment Department prior to February 1 of the year in which the per capita payment is made will also be eligible for the Per Capita Payment. Those "qualified tribal members" who have attained the age of 62 for the \$2,000 payment or 65 for the additional \$500 payment as of December 31 of the year in which the payment is made are eligible for the Elderly Per Capita Payment.

1. The Oneida Tribe shall place into trust the per capita payments, or any portion or percentage thereof, of any individual who is declared incompetent by the Oneida Appeals Commission or another court of competent jurisdiction. The Oneida Trust/Enrollment Committee shall invest said funds pursuant to an Investment



Policy adopted by the Oneida Trust/Enrollment Committee taking into account the goals and purpose of the trust, appropriate time horizons for investment, and liquidity needs of the trust.

2. The Oneida Trust Committee or its appointed agent shall have the authority to order the disbursement of funds held in trust on behalf of any individual who has been declared legally incompetent upon the petition of the guardian of such individual. The Oneida Trust Committee may require the petitioning guardian to submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made. The establishment of a regular monthly allowance for any individual declared legally incompetent from the proceeds of any per capita payment placed into trust under this Section shall be at the discretion of the Oneida Trust Committee or its appointed agent.

C. In order to provide for the future safety and well-being of the children of the Oneida Tribe, the General Tribal Council authorized that per capita payments designated for minor qualified tribal members shall be deposited into "Minors Trust Fund" established and invested by the Oneida Trust Committee pursuant to an Investment Policy adopted by the Oneida Trust Committee taking into account the goals and purposes of the trust, appropriate time horizons for investment, and liquidity needs of the trust..

1. A "minor qualified tribal member" means an individual who is a qualified tribal member as defined in Section VIII. B., except that he or she has not reached the age of eighteen (18) as of September 1 of the year in which the per capita payment is made.
2. Payments into the "Minors Trust Fund" shall be deposited into the respective trust account of the minor qualified tribal members. Account market value statements shall be available to the participant, parents or legal guardian of the minor qualified tribal member.
3. Except for those accounts subject to a deferred election as set forth in Section VIII(C)(5), each minor qualified tribal member shall receive one trust account maturity payment of the monies accumulated in the "Minors Trust Fund," including interest, for that particular minor qualified tribal member upon reaching the age of eighteen (18) if the minor qualified tribal member provides the Enrollment Department with proof he or she has obtained a high school diploma, a high school equivalency diploma or a general equivalency diploma. If such proof is not provided by the qualified tribal member, his or her trust funds shall not be disbursed until his or her twenty-first (21<sup>st</sup>) birthday. The graduating class of 2009, minors declared legally incompetent, and minors who have a learning disability or other disability are exempt from the diploma requirement. Funds for a minor declared legally incompetent shall be put into a trust account for the

legally incompetent adult. Minors with a disability providing a certificate of twelve (12) years of school attendance will be treated as high school graduates. Accounts reaching maturity will be processed and distributed not less than annually.

4. The Oneida Appeals Commission or its appointed agent shall have the authority to order the emergency withdrawal of any funds placed into the "Minors Trust Fund" on behalf of a minor qualified tribal member prior to the age of majority upon proper petition of the parent(s) or legal guardian of the minor qualified tribal member. Any requests for such emergency withdrawal shall include a detailed budget of monies necessary for essential living expenses, to include any health, safety, welfare or education costs and a detailed justification for such essential living needs including a showing that all other resources have been exhausted including federal, state, local and tribal assistance. The Oneida Appeals Commission or its appointed agent may also require that petitioners submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made.
  5. Notwithstanding the regular maturity payments rules set forth above, the Oneida Trust Committee may, at its option, implement optional deferral elections whereby Trust beneficiaries (joined by parent or guardian as appropriate) may defer payment to a later date or date provided that the Oneida Trust Committee may implement procedures and restrictions designed to comply with IRS deferral requirements including, without limitation, constructive receipt and economic benefit.
- D.** Any person enrolling in the Oneida Tribe shall not be entitled to any back payment of per capita proceeds. The first per capita payment to a new Tribal member shall be on the first date of a regularly scheduled payment after his or her qualified status is confirmed in accordance with Section VIII. B.
- E.** The Oneida Business Committee or its appointed agent shall insure that notification of the application of federal and applicable state tax laws to per capita payments be made when such payments are made. The Oneida Business Committee or its appointed agent shall also implement a procedure by which qualified tribal members who receive per capita payments can have applicable taxes automatically deducted from per capita payments. The Oneida Business Committee or its appointed agent shall include in the notice of the application of federal tax laws notice of the existence of the withholding procedure.
- F.** If any dispute arises out of the distribution of this per capita payment, all such matters shall be resolved according to the procedures set forth in the Oneida Administrative

Procedures Act adopted pursuant to General Tribal Council Resolution 8-19-91A, as amended by General Tribal Council Resolution 1-07-13-A.

**Section IX. Revision of Allocated Percentages**

Any revision of the allocated percentages set forth in Sections III through VIII shall be documented by an Oneida General Tribal Council or Oneida Business Committee resolution, a copy of which shall be provided to the Secretary of the Interior. Any revision under this section is subject to Secretarial approval as required by the Indian Gaming Regulatory Act (IGRA).

**Section X. Severability**

If any section, or any part thereof, of this Plan or the application thereof to any party, person, or entity or, in any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, or by the Department of the Interior, the remainder of the section, part or Plan shall not be affected thereby and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid.

**Section XI. No Waiver of Sovereign Immunity.**

Nothing in this Plan shall provide or be interpreted to provide a waiver of the Oneida Tribe's or any of its governmental officers' and/or agents' sovereign immunity from suit.

**Section XII. Amendment or Repeal of Plan**

This Plan, and any section, part, and word thereof, may be amended or repealed only by an Oneida Business Committee or Oneida General Tribal Council Resolution which requires a two-thirds vote of the Oneida Business Committee or the Oneida General Tribal Council respectively. Any resolution adopted by the Oneida General Tribal Council or Oneida Business Committee repealing the Plan will be forwarded to the Department of Interior. Any resolution adopted by the Oneida General Tribal Council or Oneida Business Committee which approves of amendments to the Plan will be forwarded to the Department of Interior along with the subject amendments. Any repeal or amendment of the Plan under this section is subject to Secretarial approval as required by the Indian Gaming Regulatory Act (IGRA).

**Section XIII. Readoption is not Automatic if no Plan for Subsequent Fiscal Year.**

If no Revenue Allocation Plan is prepared for the subsequent fiscal year, the terms of this Plan shall not be automatically adopted, without any further General Tribal Council or Oneida Business Committee action, to govern the allocation of net gaming revenues for the subsequent fiscal year.

**Section XIV. Effective Date**

This Plan governs the distribution of any and all net ~~gross~~ revenues occurring in fiscal year 2013 which began on October 1, 2012, and will end on ~~September 30,~~ ~~September 30,~~ 2013. This Plan becomes effective upon adoption by the Oneida Business Committee of Resolution 06-12-2013-F and approval by the Area Director of the Bureau of Indian Affairs in accordance with the United States Department of Interior's Rules and Regulations, Part 290-Tribal Revenue Allocation Plan, Vol. 65, No. 5 Fed. Reg. 14467, (March 17, 2000), IGRA, and other applicable federal law. Accordingly, this Plan is effective on the 12th day of June, 2013.

# **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.



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

**GTC Resolution # 5-10-08-A**  
*Per Capita Increase and Endowment Creation*



**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.

- WHEREAS,** the GTC adopted Resolution #GTC-7-5-04-B which set up an annual per capita payment beginning in FY2005 and extending until FY2013; and
- WHEREAS,** the Oneida Business Committee has budgeted the annual per capita payment since Fiscal Year 2005; and
- WHEREAS,** the Oneida Business Committee has determined that the annual per capita payment can be increased in FY2009 with budget savings in the current fiscal year and 2009 budget development process; and
- WHEREAS,** the current annual per capita payment of \$800 is budgeted for a total amount of approximately \$13 million; and
- WHEREAS,** the Oneida Business Committee estimates that increasing the annual per capita payment by \$400 will require an additional \$6.5 million in funds which may be accomplished by placing additional restrictions on the budget development processes, possibly resulting in sufficient savings without unduly impacting services, wages or employment; and
- WHEREAS,** the Oneida Business Committee desires that beginning an endowment to invest and increase funds available to subsidize or increase future per capita payments without affecting the budget, services, wages or employment; and
- WHEREAS,** the Oneida Business Committee desires that this endowment be established without affecting the budget by dedicating a portion of any remaining unrestricted funding; and
- WHEREAS,** the Oneida Business Committee believes that in FY2010, an additional \$1 million for the endowment can be identified and budgeted for each fiscal year thereafter through FY2013, which may or may not impact services, wages or employment; and

**WHEREAS,** the Oneida Business Committee is in the process of developing an annual per capita payment, endowment deposit, and future disbursement from the endowment;

**NOW THEREFORE BE IT RESOLVED,** that the GTC directs that the FY2009 annual per capita payment authorized by resolution # GTC-7-5-04-B be increased from \$800 to \$1,200 in Fiscal Year 2009 and every year thereafter through FY2013.

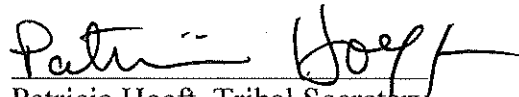
**NOW THEREFORE BE IT RESOLVED,** that the GTC directs that a portion of the unrestricted funds is dedicated to be transferred to a "per capita endowment" from which the capital shall not be diminished in accordance with the Endowment Law.

**NOW THEREFORE BE IT RESOLVED,** that the GTC directs that an additional \$1 million in funds in FY2010, and each fiscal year thereafter, shall be deposited into the "per capita endowment fund," in accordance with the Endowment Law.

**NOW THEREFORE BE IT RESOLVED,** that the OBC is directed to present a proposed annual per capita payment plan to GTC prior to FY2012 and to begin in FY2014 for a period not less than 10 years.

#### **CERTIFICATION**

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 1211 members present at a meeting duly called, noticed, and held on the 10th day of May, 2008; that the foregoing resolution was duly adopted at such meeting by a vote of 1107 members for; 85 members against, and 19 members not voting; and that said resolution has not been rescinded or amended in any way.

  
Patricia Hoelt, Tribal Secretary  
Oneida Business Committee

# Oneida Tribe of Indians of Wisconsin

Post Office Box 365

Phone: (414) 869-2214

Oneida, WI 54155



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.

## General Tribal Council Resolution # 08-11-97A Elderly Per Capita

- WHEREAS,** the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin,
- WHEREAS,** the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all times subject to the review powers of the Oneida General Tribal Council, and
- WHEREAS,** the General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and
- WHEREAS,** the General Tribal Council desires to provide for an equitable distribution to the Membership, and
- WHEREAS,** the General Tribal Council has directed the development of an Elderly Per Capita distribution on March 22, 1997, and
- WHEREAS,** the Oneida Trust Committee has diligently reviewed potential options introduced by individual members, and
- WHEREAS,** the Oneida Business Committee has reviewed potential options introduced by financial feasibility, and
- WHEREAS,** it is the desire to provide a long range plan to meet the on-going needs of the total Membership which requires further time, and

**NOW THEREFORE BE IT RESOLVED,** that the General Tribal Council hereby adopts for implementation the Motion by Bobbie Webster to approve a Per Capita payment to each enrolled elder 62 and over of \$2000.00 to begin in Fiscal Year 1998 contingent upon compact renewal.

### Certification

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council in session with a quorum of 124 Members present at a meeting duly called, noticed, and held on the 11th day of August, 1997; that the foregoing resolution was duly adopted at such meeting by a unanimous vote of those present and that said resolution has not been rescinded or amended in any way.

  
Julie Barton, Tribal Secretary  
ONEIDA BUSINESS COMMITTEE

GENERAL TRIBAL COUNCIL  
ONEIDA TRUST COMMITTEE  
RESOLUTION: 6/30/90-A

WHEREAS, On January 8, 1990 the Oneida General Tribal Council took action to direct the Oneida Trust Committee to finalize a Perpetual Trust Fund Plan that would also include a Per Capita Payment Distribution Plan, and

WHEREAS, The Oneida General Tribal Council further directed Public Hearings to finalize the plan and to schedule a Special Oneida General Tribal Council meeting for final action no later than June 1990, respectively two public hearings were held on May 31 in Oneida and June 1 in Milwaukee, and

WHEREAS, Oneida General Tribal Council Resolution 1/8/90 directed that the Elderly be given top priority in the development and distribution of a Per Capita Payment Plan, and

WHEREAS, The Oneida Trust Committee is committed to identifying NEW REVENUE sources for the continued growth of a Perpetual Trust Fund and the potential New Revenue is projected to be in the area of \$1-\$3 Million annually, and

WHEREAS, The Oneida Trust Committee finds that the implementation of the Per Capita Payment Trust Fund Distribution Plan would also establish a SAVINGS PLAN thru prudent financial planning and growth for the benefit of the Oneida Tribe, and

NOW THEREFORE BE IT RESOLVED, That the Oneida General Tribal Council approve the attached Trust Fund Distribution Plan and Per Capita Payment Plan with priority to the Elderly, age 65 and above, and to direct the Oneida Trust Committee to implement the plan as soon as possible in order to meet the needs of the membership, and

NOW FURTHER BE IT RESOLVED, That the Oneida Trust Committee be directed to collect on a scheduled basis a minimum of \$1.5 Million annually from the New Tribal Revenues and to further direct the Oneida Trust Committee and Oneida Business Committee to negotiate an annual Tribal Revenue contribution to the Trust for the implementation and distribution of the Plan, and



NOW FINALLY BE IT RESOLVED, That this annual deposit shall be binding for a period of not less than 10 years, in order to allow for the financial growth of the Trust Fund and implementation of the Per Capita Payment Distribution Plan, and that the first scheduled deposit shall occur no later than January 31, 1991 and the first scheduled payment to the Elderly, age 65 and above shall occur no later than December 31, 1994 and that no disturbance of this principal shall occur without 2/3 majority vote of the following: Oneida General Tribal Council, Oneida Trust Committee and Oneida Business Committee.

#### C E R T I F I C A T I O N

I the undersigned as Secretary of the Oneida Tribe of Indians of Wisconsin, hereby certify that the Oneida General Tribal Council in session with a quorum of 112 members present, at a meeting duly called, noticed, and held on the 30th day of June, 1990; that the foregoing resolution was duly adopted at such meeting by a majority vote of those present and that said resolution has not been rescinded or amended in any way.

for Kathy Hughes / Recording Clerk  
Tribal Secretary, Amelia Cornelius  
June 30, 1990

PER CAPITA PAYMENT TRUST FUND DISTRIBUTION PLAN  
ONEIDA GENERAL TRIBAL COUNCIL  
ONEIDA TRUST COMMITTEE

ADDENDUM TO RESOLUTION 6/30/90-A  
JUNE 30, 1990

PLAN SUMMARY:

In order to provide the Oneida Tribal members with continuing benefits from the Trust Fund earnings, the Oneida Trust Committee recommends the following:

1. To begin making annual contributions of \$1,500,000 or more into the tribal trust no later than January 31, 1991.
2. To begin in November 1994 to make a Per Capita payment of \$500 once each year, with 5% inflation built into the schedule, to all living persons over the age of 65 by 10/31 of that year.
3. When the Trust Principal value reaches \$10,000,000, to begin creating additional Trust Reserves to serve other Tribal members with special needs, including:
  - a. Handicapped
  - b. Burial Fund
  - c. Scholarships
4. To cause the Trust Principal to grow adequately to provide these benefits on an ongoing basis from the Trust earnings, reserving the Trust Principal as a funding source in the event of a Tribal Emergency.
  - a. In such emergency case, a 2/3 majority vote of the Oneida General Tribal Council, Oneida Trust Committee and Oneida Business Committee would be required to invade the Trust Principal. All contributions to the Trust are to be considered Trust Principal.
5. Investment and Management of the Trust Principal and its earnings shall be governed and administered by the Oneida Trust Committee.
6. The Trust Committee, as an elected representative body, reserves the right to declare benefits on an annual basis, as funds are available.

BENEFICIARIES:

1. Enrolled, Living on October 31 of each payment year, Age 65 and above by October 31 of each payment year.
  - a. Lowering the age group to 62 would be contingent on adequate funds available for payment. Age group would be periodically reviewed for determination of Beneficiary expansion.
  - b. Distribution to the Beneficiary shall be in a form prescribed by the Oneida Trust Committee.
  - c. Procedures for distribution shall be developed by the Oneida Trust Committee.
  - d. Procedures for distribution other than cash payment shall be developed for elderly in cases where the actual payment would cause loss of regular benefits, such as SSI, Medical Assistance, etc.,.
2. Upon death of a beneficiary his/her share shall revert back to the Trust Fund.

GOVERNING BODY:

1. Oneida Trust Committee:
  - a. Will report to the Oneida General Tribal Council on a semi-annual basis.
2. Oneida Trust Committee shall be bound and governed by the following documents:
  - a. Oneida Trust Agreement,
  - b. Oneida Trust Committee By-Laws,
  - c. Membership Ordinance,
  - d. Oneida Trust Committee Removal Ordinance,
  - e. Memorandum of Agreement,
  - f. General Tribal Council Legislative Directives,

ADMINISTRATIVE BODY:

1. Oneida Enrollment & Trust Department:
  - a. Operational Policy & Procedures, Memorandum of Agreement,
  - b. Management Plan,

NEW REVENUE:

The plan was developed with the initiative that New Revenue be generated to proportionately fund the Oneida Per Capita Payment Distribution Trust Plan - Sr. Citizens.

1. Walmart Venture 5% Taxation:

A. The Oneida Tribe shall implement a collection of taxation from the Walmart Venture. All revenue collected shall be utilized to support government services:

1. A deposit shall be negotiated between the Oneida Trust Committee and the Oneida Business Committee for exchange of like amount of dollars into the Oneida Per Capita Trust Fund per procedures set forth and mutually agreed upon by the Oneida Trust Committee and Oneida Business Committee.

2. Vendors Licensing/Permit Fees:

A. The Oneida Tribe shall implement a collection of Vendors Licensing Fees/Permits from the following:

1. All vendors who do business with the Tribe and whose revenue exceeds \$3000 per year.
2. All Consultants whose fees exceed \$500 per year.
  - i. Exemption would be those individuals who receive stipend revenue for board duty.
3. Contractors as determined in the Vendors Licensing Permit Ordinance.

B. A Vendors Licensing Permit Ordinance shall be developed with cooperation of the Oneida Law Department and scheduled for Public Hearing by the Oneida Trust Committee and submitted to the Oneida Business Committee for final approval.

C. All revenue collected shall be utilized in one of the following manners:

1. Deposit into the Oneida Per Capita Trust Fund per procedures set forth and mutually agreed upon by the Oneida Trust Committee and Oneida Business Committee.
2. Negotiated between the Oneida Trust Committee and Oneida Business Committee for exchange of

like amount of dollars into the Oneida Per Capita Trust Fund per procedures mutually agreed upon by the Oneida Trust Committee and Oneida Business Committee.

3. Undistributed Prize monies:

A. All categories of prize monies expired and not claimed by individual customers shall be earmarked for collection and deposit into the Oneida Per Capita Trust Fund per procedures set forth by the Oneida Trust Committee.

i. Exemption would be those prize monies held in an annuitized fund by an insurance company.

4. Users Fees:

The Oneida Tribe shall implement a collection of Users Fees in the following areas:

a. All areas of the Tribe that conduct gaming:

1. Negotiate and develop criteria of all Users Fees on all areas of Gaming.

2. Negotiated between the Oneida Trust Committee and Oneida Business Committee for exchange of like amount of dollars for deposit into the Oneida Per capita Trust fund per procedures mutually agreed upon by the Oneida Trust Committee and Oneida Business Committee.

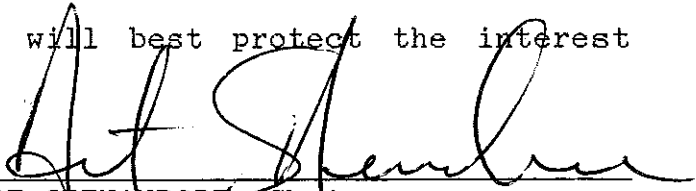
TRIBAL REVENUE:

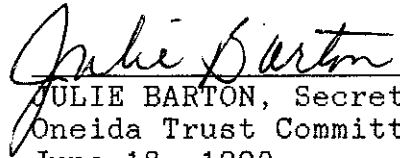
The Oneida Trust Committee and Business Committee shall negotiate as per the General Tribal Council Resolution 6/30/90-A a dollar amount of tribal revenue on an annual basis for deposit into the Oneida Per Capita Trust Fund per procedures mutually agreed upon by the Oneida Trust Committee and Oneida Business Committee.

ONEIDA TRUST COMMITTEE:

The Oneida Trust Committee hereby accepts to hold and administer and to direct the investment, reinvestment and collection of income therefrom and make arrangements for disbursements as hereinafter provided. Further said Oneida Trust Committee agrees to abide by such procedures as the Oneida Trust

Committee determines will best protect the interest  
and principal.

  
ART SKENDORE, Chairman  
Oneida Trust Committee  
June 18, 1990

  
JULIE BARTON, Secretary  
Oneida Trust Committee  
June 18, 1990

#### C E R T I F I C A T I O N

I the undersigned Secretary of the Oneida Tribe of  
Indians of Wisconsin, hereby certify that the Oneida  
General Tribal Council in session with a quorum of  
members present, at a meeting duly called, noticed,  
and held on the 30th day of June, 1990; that the  
foregoing plan was duly adopted by, resolution  
6/30/90- A, at such meeting by a majority vote of  
those present and that said plan has not been  
rescinded or amended in any way.

\_\_\_\_\_  
Tribal Secretary, Amelia Cornelius



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

# Oneida Tribe of Indians of Wisconsin

Post Office Box 365

Phone: 869-2214

Oneida, WI 54155



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.

## GENERAL TRIBAL COUNCIL RESOLUTION NO. #7-2-84-A

- WHEREAS, the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and
- WHEREAS, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council and is at all time subject to the review powers of the Oneida General Tribal Council, and
- WHEREAS, the General Tribal Council has been delegated the authority of Article IV, Section I of the Oneida Tribal Constitution, and
- WHEREAS, the Oneida General Tribal Council has directed the Oneida Business Committee to revise and update all tribal ordinances including the Oneida Membership Ordinance, and
- WHEREAS, the Oneida Membership Ordinance was first adopted by the Oneida General Tribal Council in 1941, and which ordinance was approved by the Secretary of the Interior in 1942, and
- WHEREAS, the Oneida Membership Ordinance has from time to time been revised, and
- WHEREAS, occasions have occurred wherein the present ordinance does not provide for enrollment of Oneida persons who would be otherwise eligible for enrollment, such as children of Oneida parents one of whom may be enrolled in a different Oneida community, and
- WHEREAS, it is the desire of the Oneida General Tribal Council that all persons who are eligible to be enrolled are properly enrolled and that all enrollments are to be accomplished in a timely and orderly manner pursuant to this ordinance upon adoption by the Oneida General Tribal Council, and

WHEREAS, the Oneida Trust Committee has met for more than a year and has discussed various revisions, and

WHEREAS, the Oneida Trust Committee has recommended to the Oneida Business Committee a new ordinance which would supersede all prior existing ordinances and amendments, a copy of which is hereto attached, and

WHEREAS, the Oneida Business Committee, on April 16, 1984, at its second regular monthly evening meeting, open to all Oneida tribal members, approved the Oneida Membership Ordinance recommended by the Oneida Trust Committee, and

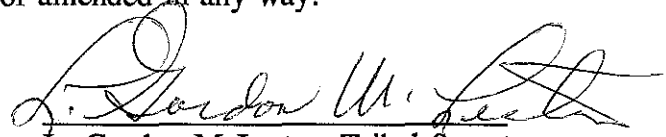
WHEREAS, no less than two (2) public hearings were held by the Oneida Business Committee, at which all tribal members were free to express their views and submit their comments on the proposed Membership Ordinance.

NOW, THEREFORE BE IT RESOLVED: that the Oneida General Tribal Council hereby approves and adopted the attached Oneida membership Ordinance, and

BE IT FURTHER RESOLVED: that upon adoption by the Oneida General Tribal Council, the attached Oneida Membership Ordinance and this resolution shall be presented to the Secretary of the Interior for his/her review pursuant to the Oneida Constitution, Article IV, Section 4.

#### CERTIFICATION

I, the undersigned, as Secretary of the Oneida Tribe of Indians of Wisconsin, hereby certify that the Oneida General Tribal Council in session with a quorum of 162 members, present at a meeting duly called, noticed and held on the 2nd day of July, 1984; that the foregoing Resolution was duly adopted at such meeting by a unanimous vote of those present and that said resolution has not been rescinded or amended in any way.

  
L. Gordon McLester, Tribal Secretary  
Oneida Tribe of Indians of Wisconsin





Onondas bringing several  
bags of corn to  
the starving army  
at Valley Forge, after the  
colonists had consistently  
refused to aid them

Post Office Box 365

Phone: 869-2214



Oneida, WI 54155



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 na-  
tion, the United States, was  
made possible.

RESOLUTION # 8-19-91-A

- 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, 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, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council, and
- WHEREAS, the Oneida Business Committee formally adopted the Oneida Tribal Administrative Procedures Act and Oneida Appeals Commission on May 2, 1990, and
- WHEREAS, the Oneida Business Committee notified the General Tribal Council of said action at the 1990 annual General Tribal Council meeting and the 1991 General Tribal Council semi-annual meeting, and
- WHEREAS, the Oneida Business Committee has brought forward the Oneida Tribal Administrative Procedures Act and Oneida Appeals Commission for reauthorization and readoption by the Oneida Business Committee, and
- WHEREAS, the General Tribal Council has been given notice of said adoption of the Oneida Tribal Administrative Procedures Act and the Oneida Appeals Commission and has had adequate time to review said actions, and
- WHEREAS, said Act and Commission would enhance and protect the self-government and sovereignty of the Oneida Tribe, and
- WHEREAS, said Act and Commission will enhance a governmental separation of powers between the legislative, executive and judicial responsibilities of the Oneida Tribe, and
- WHEREAS, the Act and Commission will diminish political pressure upon the Oneida Business Committee by removing it from initial judicial decisions, and
- WHEREAS, the Act will provide for consistent procedures of law/rule making and due process throughout the Oneida Tribe, and

HEREAS, the Indian Civil Rights Act of 1968, 25 USC Section 1301-1303 supports the policy that all Indian Tribes exercising powers of self-government shall insure that individual rights are protected and that people have a right to "petition for redress of grievances", and


WHEREAS, recent federal and state regulations are requiring that in order for tribes to receive funding, loans or grants, they must have an internal governmental structure that provides fairness and notice. and

WHEREAS, An Appeals Commission will maintain the integrity of an Oneida traditional system of decision making by insuring that there is more than one decisionmaker for any issue.

NOW THEREFORE BE IT RESOLVED: that the Oneida General Tribal Council does hereby formally reauthorize the adoption of the Oneida Tribal Administrative Act and Oneida Appeals Commission for immediate implementation.

#### C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council composed of Oneida Tribal members of whom 75 members constitute a quorum. 95 members were present at a meeting duly called, noticed and held on the 19th day of August, 1991; that the foregoing resolution was duly adopted at such meeting; and that said resolution has not been rescinded or amended in any way.

  
\_\_\_\_\_  
Amelia Cornelius, Tribal Secretary  
Oneida Business Committee

## ONEIDA TRIBAL ADMINISTRATIVE PROCEDURE ACT

### I. AUTHORITY

The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce this Act as well as the responsibility as a government to protect the health, safety, welfare and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall insure due process of law for the above designated citizens through adoption of this Act.

### II. PURPOSE

The various committees, entities and administrative bodies of the Oneida Tribe shall act in a responsible and consistent manner when implementing and administering the laws, directions, rules, programs, and policies of the Oneida Tribe as adopted. The following principles shall be the framework of this Act:

- A. Fundamental fairness, justice and common sense;
- B. Procedural and substantive ordinance and rule-making will include appropriate notice to interested persons as well as notice to the public

for an opportunity to submit views, opinions, and information;

- C. Record keeping that is responsible and understandable;
- D. Decision makers, shall be familiar with the evidence and facts of cases presented to them;
- F. Provisions for appeals of administrative errors shall be provided for;

### III. DEFINITIONS

- A. "Agency". - Any Tribal entity, board, commission, committee, department, or officer authorized by the Oneida Tribe to propose ordinance/rules for adoption by the Oneida Business Committee or a decision maker for contested cases. The term "Agency" shall not include the Oneida Business Committee or a tribal appeals body.
- B. "Contested Case" - A proceeding before an "Agency" in which an opportunity for a hearing before said "Agency" is required by law prior or subsequent to the determination of the "agency" of the legal rights, duties, or privileges or specific parties. This shall

include the revocation, suspension or modification of a license or permit when a grant of such application is contested by a person directly affected by said licensing or permitting.

- C. "License" or "Permit" - The approval, permission, or registration of any form required by law to engage in an activity.
- D. "Licensing" or "Permittting" - The process that refers to the grant, denial, renewal, revocation, suspension, annulment, withdrawl, or modification of a license or permit.
- E. "Oneida Business Committee" - OBC - The governing body of the Oneida Tribe elected by the Oneida General Tribal Council.
- F. "Oneida General Tribal Council" - The ultimate governing body of the Oneida Tribe composed of enrolled Tribal memebers.
- G. "Ordinance" - A tribal law that applies to persons and things subject to tribal jursidiction.

- H. "Person" - Any individual(s), partnership, any type of corporations, any type of enterprises, any type of local, state, federal, or tribal government and any governmental entity.
  
- I. "Reservation" - Oneida Tribe of Indians of Wisconsin original reservation containing 64,000 more or less acres.
  
- J. "Reservation Population" - All persons who are conducting business and/or visiting or who reside within the exterior boundaries of the reservation.
  
- K. "Reservation Environment" or "Reservation Resources" - Land, surface water, ground water, fish, animals, flora, fauna, air wildlife, and capital improvements on or near the reservation.
  
- L. "Rule/Regulation" - Any order or directive, or regulation of general applicability enacted into law by the Oneida Business Committee that exhibits the following:
  - 1. The violation of which may result in a fine,

- penalty, or other civil administrative sanctions;
2. May establish, change, or revoke a procedure practice or requirement of administration hearing;
  3. May establish, change, or revoke requirements relating to benefits or privileges conferred by law;
  4. May establish, change, or revoke standards for assistance, suspension or revocation of licenses;
  5. The amendment or repeal of a prior ordinance/rule;
  6. Does not include:
    - a. Statements concerning internal management of an area, nor
    - b. Declaration rulings issued pursuant to this Act as now or hereafter amended.
- M. "Secretary" - Secretary of Oneida Business Committee;
- N. "Sponsoring Agencies" - Any tribal agency that prepares a ordinance/rule or other matter under this Act, for action by Oneida Business Committee.

O. "Tribe" - Oneida Tribe of Indians of Wisconsin

IV. ADOPTION OF INFORMAL PROCEDURES, RULES AND REGULATIONS

In addition to other ordinance/rule making requirements imposed by law, agencies may adopt informal procedures authorized or designated by this Act, along with forms and instructions.

V. INSPECTION OF AGENCY ORDERS, DECISIONS, AND OPINIONS

Each agency shall keep on file for public inspection all final orders, decisions and opinions in contested cases as well as an index to said cases, decisions, orders, or opinions except that said public inspection shall be limited by applicable federal law or tribal laws of confidentiality. In addition, said agencies shall forward all agency orders, decisions or opinions to the "Secretary" who shall keep said records in one centralized area.

VI. NOTICE OF INTENT TO ADOPT ORDINANCE/RULE AND OPPORTUNITY TO SUBMIT DATA

A. Prior to a final proposal to the Oneida Business



Committee to adopt, amend or repeal a ordinance/rule,  
the sponsoring agency and the "Secretary" shall:

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1. Publish notice thereof in the Oneida tribal newspaper and post said notice in at least four other areas within the reservation. Such notice shall include:
  - a. The authority under which the ordinance/rule is proposed;
  - b. A statement of the terms, substance or a description of the subjects and issues involved;
  - c. The time, place, whom and manner in which views may be presented.
  
2. Provide interested persons a reasonable opportunity to submit data, views, or arguments in writing. The sponsoring agency shall determine whether a public hearing is in the public interest, but it is the intent of this Act that public hearings be held. Subsequent to the the public comment period and prior to a final vote by the Oneida Business Committee, the Oneida Business Committee and agency,

shall consider fully, all oral and written comments concerning the proposed action.

- B. An administrative regulatory proceeding shall be held on a final ordinance/rule only after ten (10) working days have passed from the publication date of the tribal newspaper in which notice is given of the adoption of the ordinance/rule by the Oneida Business Committee.
- C. A ordinance/rule hereafter adopted is valid only if adopted in substantial compliance with this section or if an emergency ordinance/rule designated as such is adopted in compliance with the "Emergency Ordinance/Rule" section.
- D. All adopted ordinance/rules shall immediately be filed with the secretary. All regular ordinance/rules hereafter adopted pursuant to this Act shall become effective upon the expiration of ten (10) working days following passages of said ordinance/rule unless so stated in ordinance/rule. No proceeding can be contested for purpose of noncompliance with the procedural requirements of this section, as now or

hereafter amended after one (1) year has elapsed from the effective date of the ordinance/rule.

VII. EMERGENCY ORDINANCE/RULES AND AMENDMENTS

A. If an agency recommends and the Oneida Business Committee so finds, that immediate adoption or the amendment of a ordinance/rule is necessary for the preservation of the public health, safety, or general welfare of the reservation population, and that observance of the above stated requirements would be contrary to public interest, the Oneida Business Committee may dispense with the above requirements and adopt the ordinance/rule or amendment immediately as an emergency ordinance/rule or amendment. The following shall apply:

1. A finding and brief statement of the reasons for the finding shall be incorporated in the ordinance/rule or amendment, and
2. An emergency ordinance/rule or amendment shall not remain in effect for longer than six (6) months.

B. The emergency ordinance/rule or amendment shall be

published in the tribal newspaper solely to inform the public of said adoption. This section shall not be construed to prevent the implementation of the ordinance/rule upon its adoption by the Oneida Business Committee in accordance with this section.

- C. Emergency ordinance/rules shall become effective upon their adoption by the Oneida Business Committee and said emergency ordinance/rule shall be promptly filed with the secretary.

#### VIII. FORMAT OF PROPOSED ORDINANCE/RULES

- A. The sponsoring agency shall submit a statement with the proposed ordinance/rule which describe the purpose of the ordinance/rule and how it is to be implemented. The statement shall include, but not be limited to the following:

1. A title, a description of the ordinance/rules purpose, the name of the sponsoring agency, and other information which may aid in identifying the purpose of the proposed ordinance/rule;
2. A summary of the proposed ordinance/rule;

3. The personnel responsible for drafting the proposed ordinance/rule and who will be responsible for implementation and enforcement of the proposed ordinance/rule,
- 
- B. The sponsoring agency shall have on file all copies and statements prepared in accordance with this section, and available for public inspection upon filing the proposed ordinance/rule with the secretary.

IX. PETITION FOR ADOPTION, AMENDMENT, REPEAL OF ORDINANCE/RULES

- A. Any interested person may petition an agency and request that said agency propose that the Oneida Business Committee adopt, amend, or repeal any ordinance/rule. Should this occur the following shall apply:
  1. Within sixty (60) days after the submission of a petition, the agency shall formally consider the petition, and
  2. Within thirty (30) days thereafter, the agency shall either deny the petition in writing, (stating reasons for denial) or initiate ordinance/rule making proceedings in accordance with this Act.

X. DECLARATORY RULING, AND JUDGMENTS ON VALIDITY OF  
ORDINANCE/RULE

A. Declaratory rulings shall be initially made by the agency. Any interested person may petition an agency for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any ordinance/rule enforceable by such agency.

1. A declaratory ruling shall be binding between the petitioner and agency so long as the following is adhered to:
  - a. An informal hearing has been held, and
  - b. Said declaratory ruling has been submitted to and verified by the Secretary.

2. A declaratory ruling shall not be applicable if said ruling is set aside or altered by a tribal appellate body.

B. A petitioner and the sponsoring agency may petition an appropriate Oneida tribal appeals body to issue a declaratory judgment should it appear that the ordinance/rule or its proposed application threaten to

interfere with or impair the legal rights or privileges of the petitioner; the following shall apply prior to such a petition being heard:

1. The appellate body shall have jurisdiction over the issue, and
2. The petitioner has requested in writing that the sponsoring agency pass upon the validity of the ordinance/rule in question..

C. The appellate body pursuant to this section shall declare an ordinance/rule invalid, only if it finds:

1. The ordinance/rule violates constitutional provisions, and or
2. The ordinance/rule exceeds the lawful authority of the Oneida Business Committee or the General Tribal Council, and
3. The ordinance/rule was adopted without compliance with lawful ordinance/rule making procedures.

## XI. CONTESTED CASES

A. Notice - Whenever a contested case arises within the

Oneida Tribal Administrative System the following notice requirements shall be adhered to:

1. The notice shall be in writing, and
2. The notice shall be postmarked, delivered or published no less than ten (10) days prior to the action or proceeding, and
3. Said notice shall include statements specifying:
  - a. the violation, citing the rules, regulation, policy or law, and
  - b. the specific grievance which shall include the alleged facts and/or charges and the date, time and place describing the alleged violation and/or non-compliance and
  - c. the name of all parties involved, including an agency or entity, if applicable, and
  - d. the nature of relief requested.
4. Types of Notices.
  - a. Notices are required to adhere to the above requirements in the following progression, unless personal service is more practical than by mail:
    - i) Service by registered mail, return receipt requested. This is to be



utilized first unless otherwise authorized by ordinance or unless the subject refuses to pick up the registered letter after a five (5) day period.

- 2) Personal Service. This shall occur by formal service by an officer of the Oneida Public Safety Department. The person serving shall verify the date, time and place of service to the subject.
- 3) Publication. This shall be used if the whereabouts of the subject if unknown and cannot be located after a diligent attempt to seek such location by one of the above methods of service. Publication shall be in the Oneida tribal newspaper, the Kalihwi saks, and another newspaper located in an area where the subject was last known to have resided and shall be designated as a LEGAL NOTICE stating the name and the last known address of the person/entity being located.

1. The record in a contested case shall include:
    - a. all pleadings, motions, and intermediate rulings;
    - b. evidence received or considered;
    - c. a statement of matters officially noticed;
    - d. questions and offers of proof, objections and rulings thereon;
    - e. proposed findings and exceptions; and
    - f. any decision, opinion or report by the officer presiding at the hearing.
  2. Fees of Reproduction. The tribe shall fix a consistent fee for the cost of producing records.
- C. Procedures and Rules. The following shall be adhered to when a contested case hearing is scheduled:
1. Prehearing Rules
    - a. Hearing officers are responsible to pick up documentation twenty-four hours prior to a hearing from a location designated by each agency.
    - b. Hearing officers are to be at a hearing a minimum of thirty (30) minutes prior to a scheduled hearing.

- c. Parties shall submit documentation for the hearing officers to review at least two (2) working days prior to a hearing.  
Documentation submitted after this time will not be considered unless the panel of hearing officers elects, by a majority, to accept and consider said documentation because it may have a direct impact upon the outcome of the hearing.
- d. After proper service of notice, agencies, commissions, hearing officers or their authorized agents may:
  - 1) issue a subpoena upon the request of any party upon a statement showing general relevance of the evidence requested; said request may be signed by the party itself or its designated representative; or
  - 2) issue a subpoena upon their own motion.
- e. The hearing format shall be as follows:
  - 1) grieving party presents case;
  - 2) responding party presents case;
  - 3) grieving party cross questions;
  - 4) responding party cross questions;
  - 5) grieving party rebuttal;

- 6) responding party rebuttal;
  - 7) Commission deliberations and findings.  
(Deliberations of the Commission are confidential and not subject to reproduction.)
2. Rules that encompass witnesses shall be as follows:
    - a. character witnesses shall not be allowed;
    - b. the presence of witnesses shall be the responsibility of each party and/or the Commission members;
    - c. witnesses who will not be available for a scheduled hearing shall submit a notarized statement as it relates to the hearing in order for this documentation to be considered in the case;
    - d. a witness list will be submitted at least two (2) working days prior to the hearing by each party presenting witnesses.
  3. The Commission shall institute recesses as they see fit.
  4. The Commission shall ask questions at any time during the hearing.

5. The findings and review/hearing are tribal record. Tribal members may request copies of the record of the case at the requesting parties expense.
6. Deliberation of the Commission is confidential and not subject to reproduction.
7. Hearing Rights:
  - a. The respondent has a right to be made aware of the grievance or grievances against him/her. The grievance(s) shall be attached to the notification of the hearing.
  - b. All parties have a right to be represented by an advocate if they so choose. The expenses of the advocate shall be the total responsibility of the parties. Tribal entities shall have access to a tribal attorney if they so choose.
  - c. The parties have the right to present witnesses and evidence on their own behalf.
  - d. The parties have a right to at least two (2) working days written notification prior to a review/hearing.
  - e. The parties have a right to a timely review/hearing and decision, therefore,

- notification to the parties of the final decision shall be sent or personally served within ten (10) days following the hearing.
- f. Both parties may receive all records that pertain to the grievance which is being reviewed.
  - g. The affected parties have a right to documentation of:
    - 1) the final decision, and
    - 2) the reason or reasons for the final decision, and
    - 3) the action to be taken as a result of the final decision.
  - h. The parties have the right to request one (1) appeal of the final decision of the Commission to a designated appeals body of the Oneida Tribe because of:
    - 1) procedural irregularities which were objected to at the formal hearing, and/or procedural irregularities which are brought to the attention of the Commission, and/or
    - 2) erroneous decisions which were against the weight of testimony and evidence presented to the Commission, and/or

- 3) new evidence which is made available to the appeals body which was not available to the parties or Commission until after the final decision.
8. Should the grieving party or his/her advocate fail to appear at any scheduled hearing or meeting without justifiable cause, the grievance shall be dismissed.
9. Should the responding party or his/her advocate fail to appear at any scheduled hearing or meeting without justifiable cause, said absence shall be considered an admission to the grievance and the decision of the Commission shall be based on such an admission.
10. All proceeding that arise as a result of the action of the Oneida Child Protective Board or any other juvenile proceeding shall be confidential except to the interested parties as listed in the proceedings and the Oneida Human Services Department. All hearings shall be closed to everyone except the above mentioned parties and department.
11. The decision of the hearing body shall be based witness testimony, evidence presented, the record

of the proceedings and matters officially noticed.

12. Findings and Conclusions. Every decision and order rendered by an agency in a contested case shall be in writing or stated in the record and shall include the findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact. Subsequent to a decision being made the following shall occur:

- a. Parties to the action shall be notified of the decision and order in person or by mail; and
- b. A copy of the decision and order along with the findings and conclusions; shall be delivered or mailed to each party or if a party is represented by an attorney, to the attorney of record within ten (10) days of said decision.

13. Appeal. Should a party feel that a reconsideration of the contested case should occur, the party shall than follow an Oneida tribal appeals procedure.

D. Evidence



1. Agencies, commissions, hearing officers or their authorized agents, may admit and consider evidence which is commonly viewed as acceptable and having a direct connection to the subject case, by reasonable prudent people in the conduct of their affairs which shall include not be limited to:
  - a. giving effect to the rules of privilege recognized by law (ex: attorney-client, husband-wife, etc.); and
  - b. excluding incompetent, irrelevant, immaterial and unduly repetitious evidence.
2. All evidence, including but not limited to records and documents in the possession of the agency of which it desires to avail itself, along with other factual information or evidence, shall be offered and made part of the record in the case and shall be considered in the determination of the case. Documentary evidence may be accepted in the form of copies or excerpts, or incorporated by reference.
3. Every party shall have the right of cross-examination of witnesses who testify and shall have a right to submit rebuttal evidence.
4. Agencies, commissions, hearing officers or authorized agents, may take notice of general,

technical or scientific facts within their specialized knowledge and may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented them. Parties shall be notified prior to or during the hearing as to facts that have been so noticed and they shall have the opportunity to contest such facts.

E. Orders, Fines Penalties, Judgments

An authorized hearing body, subsequent to a contested case hearing may issue fines, orders, penalties and/or judgments that comply with the Indian Civil Rights Act and that may include but not be limited to the following:

1. An order directing a violator or person in non-compliance of/with a tribal law or regulation to pay for actual damages as well as punitive damages.
2. In the case of damages caused by minors, an order requiring the parent, custodian or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.

3. An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.
4. An order specifying a monetary fine for violation or non-compliance of/with tribal rules, regulations or ordinances.
5. An order requiring appropriate exclusionary mandated community service and/or denial of specific tribal benefits.
6. Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order or default.

F. Consideration of Record, Reopening and Consultation

1. Consideration and Reopening - The officials who are to render a decision shall personally consider the record of the case. Subsequent to the close of the contested case hearing and when determined to be in the interest of justice the decision making officials may temporarily postpone the decision and elect to reopen the record and request the parties

to the proceeding submit additional written documentation and/or present an oral argument. After full consideration and deliberation of additional information, the decision making official shall render a decision within five (5) working days.

2. Consultation - No hearing official, agency or commission presiding in a contested case or preparing/proposing a decision shall consult with any person/party on any issue of fact or law in the proceedings, except that in appraisal or analyzation of the record for a decision the hearing official may:
  - a. consult with members of the agency making the decision;
  - b. have the aid and advice of one or more personal assistants; and
  - c. have the assistance of other employees of either agency or the office of a tribal attorney who has not participated in the proceeding in any manner<sup>5</sup> or who is not engaged for the agency in any investigation functions in teh same or any current factually related case.

XII. APPELLATE REVIEW OF AGENCY OR COMMISSION ACTION

- A. Appellate Review or Contested Case or Promulgation of a Rule - Any person aggrieved by either a final decision in a contested case or by the promulgation of a rule or regulation of a rule under the act, is entitled to appellate review only under the provision of this Act.
- B. Procedures - The request for appellate review of the above shall follow those procedures adopted as Oneida tribal appellate procedures.
- C. Objections - Only an objection to a rule or procedure which was raised with reasonable specificity during the public comment (hearing) period or during the contested case may be raised during appellate review.
- D. Stay - The filing of an appellate review petition shall not stay enforcement of the agency nor the rule, but the agency or appellate reviewing body may order a stay upon such terms as it deems proper.
- E. Appellate Decision - The appeals body may:

1. Affirm, modify or reverse a final decision, order or judgment; and/or
2. Remand the case back to the original hearing body and order a new hearing; and/or
3. Direct the entry of an appropriate judgment or order; and/or
4. Require such other action or further proceeding as may be appropriate to each individual proceeding.
5. Decisions of the appeals body shall be made by a majority vote.

F. Appeals Body Acceptance - The designated tribal appeals body shall accept an appeal if one or more of the following elements are found in a decision of an original hearing:

1. A violation of constitutional provisions;
2. It is outside the scope of the authority or jurisdiction of the agency or otherwise unlawful;
3. The decision is clearly erroneous and is against the weight of the evidence presented at the hearing level;
4. Arbitrary and/or capricious;
5. There is exhibited a procedural irregularity which

would be considered a harmful error that may have contributed to the final decision and if said irregularity were no present, the decision would have been different; and/or

6. There is a presentation or introduction of new evidence that was not available at the hearing level which, if available, may have affected the final decision.

G. Appeal Procedure

1. Time and Process

- a. An appeal shall be filed within ten (10) working days of the entry of the final decision order or judgment appealed from.
- b. A written intent to appeal and a \$25.00 filing fee shall be filed at an area designated by the Oneida Tribe to accept such appeal requests.
- c. A designated tribal office shall prepare the NOTICE OF APPEAL and shall request all the documents, exhibits, pleadings and transcripts pertaining to the case on appeal from the original hearing. This record shall be

returned to the designated tribal office  
within ten (10) working days of their request.

2. Notice of Appeal

- a. The notice of appeal shall be sent to all parties within ten (10) working days of being filed and shall designate the following:
- 1) the identification of the parties;
  - 2) the final decision, order or judgment appealed from; and
  - 3) a short statement of the reasons for appeal.
- b. The designee of the Commission shall mail a copy of the NOTICE OF APPEAL to all parties. The notice shall follow the notice progression and contain the same requirements as is in the NOTICE section of that entitled Contested Case.
- c. Within thirty (30) days after receipt of the total record of the original hearing record, the appropriate appeals body shall meet to review the case and set the date for final consideration.

3. Designation of Parties

- a. The party or parties filing the appeal shall



be designated as appellants.

b. Parties who are subject to an appeal, but are not appellants, shall be designated as respondents.

4. Appeals Body Costs - Appeal administration costs will be determined on a yearly basis by the Oneida Business Committee.

a. Should the appellant be successful, the respondent shall pay the costs.

b. Should the respondent be successful, the appellant shall pay the costs.

c. Should the appeal be remanded, the parties shall share the costs equally.

5. Judgment on Appeals - A judgment by the designated appeals body shall be considered final within the Oneida Tribal Administrative System.

6. Forms of Appeal

a. The appeals body may require one or both of the following methods to be presented by the parties to the appeals body for review:

1) an oral argument; and/or

2) a brief or memoranda submitted by the parties.

b. Notice of the date of an argument or

submission of a brief of memoranda shall follow the Notice Procedures designated in the contested case section of this ordinance.

c. Brief of Memoranda - Should the appeals body request a brief of memoranda, the following shall apply:

- 1) an original and three copies shall be filed with the appeal body by the appellant;
- 2) the appeals body designee shall send a copy of the memoranda to the respondent(s) (or have it served personally, if more convenient) with a return receipt requested or affidavit that shall be kept on file;
- 3) the respondent, upon receipt of appellant's memoranda, shall file with the appeals body designee an answer memoranda that will include an original and three copies;
- 4) the appeals body designee shall send a copy of the memoranda to appellant (or have it served personally if more convenient) with a return receipt

requested or affidavit, that shall be kept on file;

- 5) no further memoranda, briefs or statements shall be allowed without leave of the appeals body.
- d. Oral Argument - Should an oral argument be required of the parties, each argument shall last no longer than twenty (20) minutes exclusive of questions by the Commission.
- e. Subpoena of Witnesses and Records
- 1) The Commission may require a designee of the Commission to compel attendance of witnesses or the production of books, records, documents or other items necessary to the final disposition of an appeal proceeding.
  - 2) Noncompliance with the above subpoena order will result in a contempt charge being filed.
  - 3) Said subpoenas shall be served by the Oneida Public Safety Department only.
- f. Records of Appeal. A record of all proceedings of the appeals body shall be kept

on file and maintained by an office designated by the Oneida Tribe.

XIII. CONTEMPT PROCEEDINGS

A. Contempt - Should an individual fail to obey a subpoena, or refuse to testify or appear when requested concerning any matter under investigation or examination at a hearing or refuse to obey any order or judgment of a tribal board or commission, the agency issuing the subpoena may petition a designated tribal appeals body for enforcement of the subpoena. The petition shall include:

1. A copy of the subpoena, order or judgment;
2. Proof of service
3. The specific manner of alleged non-compliance, and
4. A request that the appeals body issue an order to require a witness to appear and testify before the agency or commission.

B. The appeals body, upon receipt of such petition or within five (5) days of receipt shall:

1. Enter an order directing the witness to appear before the appeals body at a time and place to be set by such order; and
  2. Require that the witness at the designated time show cause why he has not responded to the subpoena, why he has refused to testify or why he is failing to comply with an order or judgment.
- C. Should it appear to the appeals body that the subpoena was properly issued and that the questions the witness refuses to answer are reasonable and relevant to either the contested case or a rule making hearing, the appeals body shall:
1. Enter an order that the witness appear at the time and place fixed in the original order; and/or
  2. Enter an order that requires the witness to testify or produce required documents and comply with the existing order; and/or
  3. Require that the person failing to appear, testify or comply with an order pay a fine and/or be subject to a penalty as is described in this ordinance.

XIV. AGENCY/COMMISSION HEARING BODIES AND CONTESTED CASE HEARING BODIES RESPONSIBILITY AND AUTHORITY

A. Hearing Officers or their authorized agents, may:

1. administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge to a tribal decision making forum;
2. issue subpoenas;
3. rule upon offers of proof and receive relevant evidence;
4. require prehearing meetings;
5. regulate the course of the hearing;
6. hold conferences for the settlement or simplification of the issues;
7. dispose of procedural matters by decision;
8. take any other action authorized by tribal law consistent with this Act; and
9. issue final orders and judgments.

B. An agency/commission may hold a public hearing, subpoena

witnesses, administer oaths, take testimony or any person under oath, and in connection with, require the production of any documents relating to the contemplated regulation when attempting to determine the need or desirability of proposing that the tribe adopt, amend, repeal or revise rule, regulation or proposed rule/ordinance or regulation.

XV. MISCELLANEOUS ADMINISTRATIVE RULES

- A. Oral proceedings shall be recorded or transcribed for the purposes of agency decision. A copy of the entire record or any part thereof shall be furnished to any party upon their written request and payment of the costs.
  
- B. Fees of Reproduction. The tribe shall have the power to fix a consistent fee for the cost of producing records required to be produced by agency or commission subpoena which shall be paid by said agency or commission.
  
- C. Subpoena. Subpoenas may be served outside the reservation to the maximum extent allowable in

conformation with the requirements of the Due Process Clause of the Indian Civil Rights Act, 25 U.S.C. 1301, for purposes of long arm jurisdiction with respect to any activity occurring within the Oneida Reservation.

- D. The Federal Rules of Civil Procedures and Evidence may, where applicable, be used as general guides for proceedings before any agency, except as to matters covered explicitly by tribal law. The Federal Rules shall be interpreted as instructive rather than controlling in any event.

#### XVI. LICENSING, LICENSE PERMITTING AND EMERGENCY ACTIONS

- A. License Application. When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary or provisional license does not expire until the application has been finally determined by the agency, and in case the application is denied of the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing body.



B. Notice of Action. No revocation, suspension, annulment, modification or withdrawal of any license or permit is lawful, unless, prior to an agency or commission proceeding, the agency gives notice, as is required by tribal law (return receipt) to the licensee of facts or conduct which warrants the intended action, and the licensee was given reasonable opportunity to show compliance with all lawful requirements (right to cure) for the retention of the license or permit and said licensee or permittee is given notice that he/she has a right to challenge such action under the procedures of a contested course.

C. Emergency Action. Where an agency or commission finds that protection of tribal and/or public health, safety or welfare require that immediate emergency action be taken, summary suspension of a license or permit may be ordered pending proceedings for revocation. Said order shall include the rational and/or findings. Said action, (revocation or other action) shall be instituted within five (5) working days of emergency action and shall be decided upon promptly with appropriate notice to the affected licensee or permittee.

XVII. SEVERABILITY, REPEAL, EFFECTIVE DATE, CONFLICT WITH  
FEDERAL LAW, LIMITATIONS OF ACT AND COMPLIANCE WITH ACT

- A. Severability. Should a provision of this Act or the application thereof to any person or circumstance be held as invalid, such invalidity shall not affect other provisions of the Act which are considered to have legal force without the invalid provisions.
  
- B. Repeal. All other Oneida tribal laws, rules or regulations which are inconsistent with this Act and are held subject to this Act are hereby repealed, but such shall not affect pending proceedings.
  
- C. Effective Rate. This Act shall take effect \_\_\_\_\_ days after the date of formal approval by the Oneida Business Committee.
  
- D. Conflict with Federal Law. Should any part of this Act be found to be in conflict with federal requirements which are required in order that the Oneida Tribe receive federal funds; the conflicting ;section of this Act is to be considered inoperative only for purposes of that particular funding and that particular conflict.

Such conflict shall not affect the operation of the remainder of this Act in its application to those agencies or departments directly affected.

- E. Compliance with Act. Nothing in this Act shall be held to diminish constitutional rights of any person or to limit or repeal additional requirements imposed by or otherwise recognized by law. All requirements or privileges relating to evidence or procedures shall apply equally to agencies and persons. Every agency or commission is granted authority to comply with the requirements of this Act. Subsequent tribal law shall not supersede or modify this Act or its applicability to any agency unless it is done so expressly by tribal law.

# Oneida Tribe of Indians of Wisconsin



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.

## GTC Resolution 01-07-13-A

### Adoption of the Administrative Procedures Act Amendments and the Legislative Procedures Act

- 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 Administrative Procedures Act (APA), which was adopted by the General Tribal Council on August 19, 1991, contains lawmaking provisions, and
- WHEREAS,** revisions to the APA, which has been in effect for over twenty years, are necessary to improve the Tribe's lawmaking process, and
- WHEREAS,** it is necessary to amend the APA by deleting the APA's lawmaking provisions in order to accommodate the new lawmaking provisions found under the Legislative Procedures Act, and
- WHEREAS,** the Legislative Procedures Act would streamline and improve the lawmaking process, without limiting public input or otherwise impacting the review process, and
- WHEREAS,** the Legislative Procedures Act would also update and improve the lawmaking process by requiring an Oneida Register be maintained; and both a fiscal impact statement(s) and a legislative analysis be prepared for each legislative proposal, with the exception that fiscal impact statements would not be required for emergency legislation, and
- WHEREAS,** the Legislative Procedures Act would revamp the public hearing process by requiring public meetings, instead of public hearings, be held and reducing the length of the public comment process, and
- WHEREAS,** public hearings were held on March 11, 2010 for amendments to the APA and on March 11, 2010 and April 17, 2012, for the adoption of the Legislative Procedures Act, and
- WHEREAS,** community meetings were held on January 12, 2011, January 13, 2011 and January 15, 2011, for the Legislative Procedures Act.

**NOW THEREFORE BE IT RESOLVED,** that the attached amendments to the Administrative Procedures Act and the Legislative Procedures Act are hereby adopted and shall be effective 60 days from adoption.

**BE IT FINALLY RESOLVED,** that rules, regulations and policies adopted or amended by the Oneida Business Committee shall be processed in accordance with the Legislative Procedures Act until such time an alternate process is provided by law.

### CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida General Tribal Council, in session with a quorum of 2,032 members present, at a meeting duly called, noticed and held on the 7<sup>th</sup> day of January, 2013; that the forgoing resolution was duly adopted at such meeting by a 2/3 vote of those present and that said resolution has not been rescinded or amended in any way.

  
Patricia Hoeft, Tribal Secretary  
Oneida Business Committee

**Chapter 1**  
**ADMINISTRATIVE PROCEDURES ACT**  
 Yukwayathalaka'sé Olihwá'ke  
 Our new ways of talking about Matters

1.1-1.	Authority	1.8-1	Appellate Review of Agency or Commission Action
1.2-1	Purpose	1.9-1	Contempt Proceedings
1.3-1.	Adoption, Amendment, Repeal	1.10-1	Agency/commission Hearing Bodies and Contested Cas Hearing Bodies Responsibility and Authority
1.4-1	Definitions	1.11-1	Miscellaneous Administrative Rules
1.5-1	Inspection of Agency Orders, Decisions, and Opinions	1.12-1	Licensing And/or Permitting and Emergency Actions
1.6-1	Declaratory Ruling and Judgments on Validity of Ordinance/rule	1.13-1	Severability, Repeal, Effective Date, Conflict with Federal Law, Limitations of Act and Compliance
1.7-1	Contested Cases		

**1.1-1. Authority.** The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce this act as well as the responsibility as government to protect the health, safety, welfare, and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as amended.

**1.2-1. Purpose.** The Oneida Business Committee, various committees, entities and administrative bodies of the Oneida Tribe shall act in a responsible and consistent manner when enacting, approving, revising, reviewing, interpreting, implementing, and administering the laws, directions, rules, programs, and policies of the Oneida Tribe adopted. The following principles shall be the framework of this Act:

- (a) Fundamental fairness, justice, and common sense.
- (b) Record keeping that is responsible, organized, accessible, and understandable.
- (c) Deliberative bodies and decision makers which are familiar with the evidence and facts of the cases presented to them as well as issuing clear and concise written opinions; and
- (d) Provisions for appeals of administrative errors and contested issues.

**1.3-1. Adoption, Amendment, Repeal**

(a) This law was adopted by the Oneida General Tribal Council by resolution GTC-8-19-91-A and amended by GTC-1-07-13-A.

(b) This law may be amended by the Oneida General Tribal Council.

(c) 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.

(d) 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. Specifically, the following are repealed:

- (a) BC 67-5-95-K (Amendment to the Administrative Procedures Act to address public hearing process)
- (b) BC 2-2-88-A (Public hearing process for laws and policies)

(e) This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**1.4-1. Definitions.** (a) "AGENCY": Any tribal entity, board, commission, committee, department, or officer authorized by the Oneida Tribe to propose ordinance/rules for adoption by the Oneida Business Committee or a decision maker for the contested cases. The term "Agency" shall not include the Oneida Business Committee or a tribal appeals body.

(b) "CONFIDENTIALITY": Status or quality of being confidential; treated as private and not for publication.

(c) "CONTESTED CASES": A proceeding before an "Agency" in which an opportunity for a hearing before said "Agency" is required by law prior or subsequent to the determination of the "Agency" of the legal rights, duties, or privileges of specific parties unless otherwise provided for by tribal law. This shall include the revocation, suspension, or modification of a license or permit when a grant of such application is contested by a person directly affected by said licensing or permitting.

(d) "DECLARATORY RULING": A written ruling made by a tribal decision-making body which removes doubts or puts an end to conflicting decisions or a regard to what law is in relation to a particular matter.

(e) "DELIBERATIVE BODY": A body that weighs, examines, and consults the reasons for and against a contemplated act or course of conduct or choice of acts or means in order to form an opinion.

(f) "EMERGENCY": An unexpected or unforeseen occurrence or condition; a sudden or unexpected occasion for action; pressing necessity.

(g) "LICENSE" or "PERMIT": The approval, permission, or allowance of an individual or group to engage in an activity that is lawfully adopted by the Oneida Tribe.

(h) "LICENSING" or "PERMITTING": The process that refers to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license or permit.

(i) "ONEIDA BUSINESS COMMITTEE" (OBC): The representative body of the Oneida Tribe elected by the Oneida General Tribal Council pursuant to Article III of the Oneida Tribal Constitution.

(j) "ONEIDA GENERAL TRIBAL COUNCIL": The ultimate governing body of the Oneida Tribe composed of enrolled tribal members as described in Article III of the Oneida Tribal Constitution.

(k) "ORDINANCE": A tribal law that applies and governs persons, activities, and properties subject to tribal jurisdiction.

(l) "RESERVATION": All land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(m) "RESERVATION ENVIRONMENT" or "RESERVATION RESOURCES": Land, surface water, ground water, fish, animals, flora, fauna, air, wildlife, and capital improvements on or near the reservation.

(n) "RULE/REGULATION": Any order or directive, regulation of general applicability enacted into law and approved by the Oneida Business Committee that exhibits the following:

- (1) The violation of which may result in a fine, penalty, or other civil administrative sanction;
- (2) May establish, change, revoke a procedure, practice, or requirement of administration hearing;

- (3) May establish, change, or revoke requirements relating to benefits or privileges conferred by law;
- (4) May establish, change, or revoke standards for assistance, suspension, or revocation of licenses;
- (5) The amendment or repeal of a prior ordinance/rule;
- (6) Does not include the following:
  - (A) statements concerning internal management of an area, nor.
  - (B) Declaratory rulings issued pursuant to this Act as now or hereafter.
- (o) "SECRETARY": Secretary of the Oneida Business Committee.
- (p) "SPONSORING AGENCIES": Any tribal agency that prepares an ordinance/rule or other matter under this Act for action by the Oneida Business Committee.

**1.5-1. Inspection of Agency Orders, Decisions, and Opinions** Each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases as well as an index to said cases, decisions, orders, or opinions except that said public inspection shall be limited by applicable federal law or tribal laws of confidentiality. In addition, said agencies shall forward all agency orders, decisions, or opinions to the "Secretary" who shall keep said records in one centralized area.

**1.6-1. Declaratory Ruling and Judgments on Validity of Ordinance/rule**

- (a) Declaratory Rulings. Declaratory Rulings shall be initially made by the agency or any interested person may petition an agency for a Declaratory Ruling with the respect to the applicability to any person, property, or state acts of any Ordinance/Rule enforceable by such agency.
  - (1) A Declaratory Ruling shall be binding between the petitioner and agency/individual so long as the following is adhered to:
    - A. An informal hearing has been held, and
    - B. Said Declaratory Ruling has been submitted to and verified by the Secretary.
  - (2) A Declaratory Ruling shall not be applicable if said ruling is set aside or altered by a Tribal Appellate body.
- (b) Declaratory Judgment. A petitioner and/or sponsoring agency may petition the Oneida Tribal Appeals Commission to issue a declaratory judgment should it appear that the Ordinance/Rule or its proposed application threaten to interfere with or impair the legal rights or privileges of the petitioner; the following shall apply prior to such a petition being heard:
  - (1) The appellate body shall have jurisdiction over the issue, and
  - (2) The Ordinance/Rule exceeds the lawful authority of the Oneida Business Committee or the General Tribal Council, and
  - (3) The Ordinance/Rule failed to comply with lawful Ordinance/Rule making procedures.

**1.7-1. Contested Cases**

- (a) Notice. Whenever a contested case has arisen within the Oneida Tribal Administrative System, the following notice requirements shall be adhered to:
  - (1) The notice shall be in writing, and
  - (2) The notice shall be posted, delivered, or published no later than ten (10) days prior to the action or proceeding, and

- (3) Said notice shall include statements specifying:
  - A. The violation, citing the rules, regulations, policies, or laws, and
  - B. The specific grievance which shall include the alleged facts and/or charges and the date, time, and place describing the alleged violation and/or non-compliance, and
  - C. The name of all parties involved, including an agency or entity if applicable, and
  - D. The nature of relief requested.
- (4) Types of Notices
  - A. Notices are required to adhere to the above requirements in the following progression, unless personal service is more practical than by mail:
    - (i) Service by registered mail, (return receipt requested).
    - (ii) Personal Services. This shall occur by formal service by an officer of the Oneida Public Safety Department. The person serving shall verify the date, time, and place of service to the subject served.
    - (iii) Publication. This shall be used if the whereabouts of the subject is unknown and cannot be located after a diligent attempt to seek such location by one of the above methods of service. Publication shall be in the Oneida Tribal Newspaper (KALIHWSAKS), and another paper located in an area where the subject was last known to have resided and shall be designated as a LEGAL NOTICE stating the name and the last-known address of the person/entity being located.
    - (iv) A designated person or department shall be established by the Oneida Tribe to accept petitions for contested cases and follow through on the entire case.

(b) Records.

- (1) The record in a contested case shall include the following:
  - (A) All pleadings, motions, and intermediate rulings, and
  - (B) Evidence received or considered, and
  - (C) A statement of matters officially noticed, and
  - (D) Questions and offers of proof, objections and rulings thereon, and
  - (E) Proposed findings and exceptions, and
  - (F) Any decision, opinion, or report by the officer presiding at the hearing, and
  - (G) A complete record of the proceeding shall be taped except for deliberations.

(2) Fees of Reproduction. The tribe shall fix a consistent fee for the cost of reproducing records.

(c) Procedures and Rules. The following shall be observed when a contested case is being heard:

- (1) Pre-hearing Rules (Minimum Time Frame)
  - (A) Parties shall submit documentation for the hearing officers to review at least two (2) business days prior to a hearing. Documentation submitted after this time will not be considered unless the panel of hearing officers elects, by a majority, to accept and consider said documentation because it may have a direct impact upon the outcome of the hearing.
  - (B) Hearing officers are responsible to pick up documentation twenty-four (24) hours prior to a hearing from a location designated by each agency.
  - (C) Hearing officers are to be present for a hearing a minimum of thirty (30) minutes prior to a scheduled hearing.



- (D) After proper service of notice, agents, commissions, hearing officers or their authorized agents may do the following:
- (i) Issue a subpoena upon the request of any party upon establishing general relevance of the evidence requested; said request may be signed by the party itself or its designated representative; or
  - (ii) Issue a subpoena upon their own motion.
- (2) The hearing format shall be as follows:
- (A) Grieving party presents case;
  - (B) Responding party presents case;
  - (C) Grieving party cross questions;
  - (D) Responding party cross questions;
  - (E) Grieving party rebuttal;
  - (F) Responding party rebuttal;
  - (G) Original Hearing Body deliberations and findings. (Deliberations of the Original Hearing Body are confidential and not subject to reproduction.)
- (3) Rules that encompass witnesses shall be as follows:
- (A) Character witnesses may submit written affidavits;
  - (B) The presence of witnesses shall be the responsibility of each party and/or the Original Hearing Body members;
  - (C) Witnesses who will not be available for a scheduled hearing shall submit a notarized statement as it relates to the hearing in order for this documentation to be considered in the case;
  - (D) A witness list will be submitted at least two (2) business days prior to the hearing by each party presenting witnesses.
- (4) The Original Hearing Body shall institute recesses and postponements as they see fit.
- (5) The Original Hearing Body shall ask questions at any time during the hearing.
- (6) The findings and hearing are Tribal records. Tribal members may request copies of the record of the case at the requesting parties expense, except in juvenile cases or when juveniles are involved.
- (7) Deliberation of the Commission is confidential and not subject to reproduction.
- (8) The respondent has a right to be made aware of the grievance or grievances against him/her. The grievance(s) shall be attached to the notification of the hearing.
- (9) All parties have a right to be represented by an advocate if they so choose. The expenses of the advocate shall be the total responsibility of the parties. Tribal entities shall have access to a Tribal Attorney if they so choose.
- (10) The parties have the right to present witnesses and evidence on their own behalf.
- (11) The parties have a right to at least ten (10) business days written notification prior to a hearing.
- (12) The parties have a right to a timely hearing and decision; therefore, notification to the parties of the final decision shall be personally served within ten (10) business days following the hearing and said hearing and decision shall be completed within 120 days unless time line is waived by both parties.
- (13) Both parties may receive all records that pertain to the grievance which is being reviewed.
- (14) The affected parties have a right to documentation of the following:

- (A) The final decision, and
  - (B) The reason(s) for the final decision, and
  - (C) The action to be taken as a result of the final decision.
- (15) The parties have the right to request an appeal of the final decision of the Original Hearing Body to a designated appeals body of the Oneida Tribe because of:
- (A) Procedural irregularities which were objected to at the formal hearing, and/or procedural irregularities which are brought to the attention of the Original Hearing Body and/or
  - (B) Decisions which were made clearly against the weight of testimony and evidence presented to the Original Hearing Bodies and/or
  - (C) New evidence which is made available to the appeal body which was not available to the parties or Original Hearing Officers until after the final decision.
- (16) Should the grieving party and/or his/her advocate fail to appear at any scheduled hearing or meeting without justifiable cause, the grievance shall be dismissed.
- (17) Should the responding party and/or his/her advocate fail to appear at any scheduled hearing or meeting without justifiable cause, his absence shall be considered an admission to the grievance and the decision of the Commission shall be based on such an admission.
- (18) All proceedings that arise as a result of the action of the Oneida Child Protective Board or any other juvenile proceeding shall be confidential except to the interested parties as listed in the proceedings and the Oneida Human Services Department. All hearings shall be closed to everyone except the above mentioned parties and department.
- (19) The decision of the hearing body shall be based upon witness testimony, evidence presented, the record of the proceeding, and the matters officially noticed.
- (20) Findings and Conclusions. Every decision and order rendered by an agency in a contested case shall be in writing in the record and shall include the findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact. Subsequent to a decision being made, the following shall occur:
- (A) Parties to the action shall be notified of the decision and order in person or by mail, and
  - (B) A copy of the decision and order along with the findings and conclusions, shall be delivered or mailed to each party and if party is represented by an attorney of record within ten (10) days of said decision.
- (21) Appeal. Should a party feel that reconsideration of the contested case should occur, the party shall then follow an Oneida Tribal Appeals procedure.
- (d) Evidence.
- (1) Agencies, commissions, hearing officers or their authorized agents, may admit and consider evidence which is commonly viewed as acceptable and having direct connection to the subject case, by reason of prudent people in the conduct of their affairs which shall include but not be limited to:
    - (A) Giving effect to the rules or privileges recognized by law (ex: attorney-client, husband-wife, etc.), and
    - (B) Excluding incompetent, irrelevant, immaterial, and unduly repetitious evidence.
  - (2) All evidence, including but not limited to, records and documents in the possession of the agency of which it desires to avail itself, along with other factual information or

evidence, shall be offered and a part of the record in the case and shall be considered in the determination of the case. Documentary evidence may be accepted in the form of copies or excerpts, or incorporated by reference and/or notarized or verified when appropriate.

(3) Every party shall have the right of cross-examination of witnesses who testify and shall have a right to submit rebuttal evidence.

(4) Agencies, commissions, hearing officers, or authorized agents may take notice of general, technical, or scientific facts with their specialized knowledge in the evaluation of the evidence presented them. Parties shall be notified prior to or during the hearing as to facts that have been so noticed and they shall have the opportunity to contest such facts.

(e) Orders, Fines, Penalties, and Judgments.

An authorized hearing body, subsequent to a contested case/hearing, may issue fines, orders, penalties and/or judgments that comply with the Indian Civil Rights Act and that may include, but not be limited to, the following:

(1) An order directing a violator or person in non-compliance of/with a tribal law or regulation to pay for actual damages as well as punitive damages.

(2) In the case of damages caused by minors, an order requiring the parent, custodian, or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.

(3) An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.

(4) An order specifying a monetary fine for violation or non-compliance of/with tribal rules, regulations, or ordinances.

(5) An order requiring appropriate exclusion and/or mandated community service and/or denial of specific tribal benefits.

(6) Unless precluded by law, informal disposition, signed by both parties, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(7) An order placing a lien upon property owned by a person within jurisdiction of the Oneida Tribe of Indians of Wisconsin. Said lien shall be filed in a county court and/or the appropriate tribal registry.

(f) Consideration of Record, Reopening, and Consultation.

(1) Consideration and Reopening. The officials who are to render a decision shall personally consider the record of the case. Subsequent to the close of the contested case hearing and when determined to be in the interest of justice, the decision-making officials may temporarily postpone the decision and elect to reopen the record and request the parties to the proceeding submit additional written documentation and/or present an oral argument. After full consideration and deliberation of additional information, the decision-making officials shall render a decision within five (5) business days.

(2) Consultation. No hearing official, agency, or commission presiding in a contested case or preparing/proposing a decision shall consult with any person/party on any issue of fact or law in the proceedings except that in appraisal/analysis of the record for a decision the hearing official may:

(A) Consult with members of the agency making the decision; and

(B) Have the aid and advice of one or more personal assistants; and

(C) Have the assistance of other employees of either agency or the office of a Tribal Attorney who has not participated in the proceeding in any manner or who is not

engaged for the agency in any investigati functions in the sam or any current factually related case.

### 1.8-1. Appellate Review of Agency or Commission Action

- (a) Appellate Review of Contested Case or Promulgation of a Rule. Any person aggrieved by either a final decision in a contested case by the promulgation of a rule or regulation of a rule under the act, is entitled to appellate review only under the provision of this Act.
- (b) Procedures. The request for appellate review of the above shall follow those procedures adopted as Oneida Appeals Commission procedures.
- (c) Objections. Only an objection to a rule or procedure which was raised with reasonable specificity during the public comment (hearing) period or during the contested case may be raised during appellate review.
- (d) Stay. The filing of an appellate review petition shall not stay enforcement of the agency nor the rule, but the agency or appellate reviewing body may order a stay upon such terms as it deems proper.
- (e) Appellate Decision. The appeals body may
- (1) Affirm, modify, or reverse a final decision, order, or judgment; and/or
  - (2) Remand the case back to the original hearing body and order a new hearing; and/or
  - (3) Direct the entry of an appropriate judgment or order; and/or
  - (4) Require such other action or further proceeding as may be appropriate to each individual action.
  - (5) Decisions of the appeals body shall be made by a majority vote.
- (f) Appeals Body Acceptance. The Oneida Appeals Commission shall accept an appeal if one or more of the following elements are found in a decision of an original hearing:
- (1) A violation of constitutional provisions;
  - (2) The decision is outside the scope of the authority or otherwise unlawful;
  - (3) The decision is clearly erroneous and against the weight of the evidence presented at the hearing level;
  - (4) Arbitrary and/or capricious;
  - (5) There is exhibited a procedural irregularity which would be considered a fundamental error that may have contributed to the final decision and if said irregularity were not present, the decision would have been different; and/or
  - (6) There is a presentation or introduction of new evidence that was not available at the hearing level which, if available, may have affected the final decision.
- (g) Appeals Commission Procedure.
- (1) Time and Process
    - (A) An appeal shall be filed within thirty (30) business days of the entry of the final decision order or judgment appealed from
    - (B) A written intent to appeal and a \$25.00 filing fee shall be filed at an area designated by the Oneida Tribe to accept such appeal requests.
    - (C) A designated tribal office shall prepare the Notice of Appeal and shall request all the documents, exhibits, pleadings, and transcripts pertaining to the case on appeal from the original hearing.
  - (2) Notice of Appeal

- (A) The Notice of Appeal shall be sent to all parties with ten (10) business days of being filed and shall designate the following:
- (i) The identification of the parties;
  - (ii) The final decision, order, or judgment appealed from; and
  - (iii) A short statement of the reasons for appeal.
- (B) The designee of the Commission shall mail a copy of the Notice of Appeal to all parties. The notice shall follow the notice progression and contain the same requirements as is in the Notice section of that Contested Case.
- (C) Within fifteen (15) business days after receipt of the total record of the original hearing record, the appropriate appeals body shall meet to review the case and set the date for final consideration, unless the time limit is waived and extended by both parties.
- (D) Hearing record shall be sent to appeals body within ten (10) business days of Notice of Appeal being filed.
- (3) Designation of Parties
- (A) The party or parties filing the appeal shall be designated appellants.
  - (B) Parties who are subject to an appeal, are not appellants, shall be designated as respondents.
- (4) Appeals Body Cost Administration costs will be determined on a yearly basis by the Oneida Business Committee.
- (A) Should the appellant be successful, the respondent shall pay the costs.
  - (B) Should the respondent be successful, the appellant shall pay the costs.
  - (C) Should the appeal be remanded, the parties shall share the costs equally.
- (5) Judgment on Appeals. A judgment by the Oneida Appeals Commission shall be considered final within the Oneida Tribal Judicial System
- (6) Forms of Appeal
- (A) The appeals body may require one or both of the following methods to be presented by the parties to the appeals body for review:
    - (i) An oral argument; and/or
    - (ii) A brief or memorandum submitted by the parties.
  - (B) Notice of the date of an argument or submission of a brief of memoranda shall follow the Notice Requirement listed below.
  - (C) Brief of Memoranda. Should the appeals body request a brief of memoranda, the following shall apply:
    - (i) An original and three (3) copies shall be filed within the appeals body by the appellant within ten (10) days of the request.
    - (ii) The appeals body designee shall send a copy of the memoranda to the respondent(s) (or have it served personally (if more convenient)) with a return receipt requested or affidavit that shall be kept on file within ten (10) days of receipt by the designee.
    - (iii) The respondent, after receipt of appellant's memoranda, shall file with the appeals body designee an answer memorandum that will include an original and three (3) copies within ten (10) days of receipt of the memoranda.
    - (iv) The appeals body designee shall send a copy of the memoranda to appellant within ten (10) days of receipt of by designee (or have it served

personally if more convenient) with a return receipt requested or affidavit, that shall be kept on file.

(v) No further memoranda, briefs, or statements shall be allowed without leave of the appeals body.

(d) Oral Argument. Should an oral argument be required of the parties, each argument shall last no longer than twenty (20) minutes exclusive of questions of the Commission.

(e) Subpoena or Witnesses and Records

(1) The Commission may require a designee of the Commission to compel attendance of witnesses or the production of books, records, documents, or other items necessary to the final disposition of an appeal proceeding.

(2) Non-compliance with the above subpoena order will result in a contempt charge being filed.

(3) Said subpoenas shall be served by the Oneida Public Safety Dept.

(f) Records of Appeal. The record of all proceedings of the appeals body shall be kept on file and maintained by an office designated by the Oneida Tribe.

(7) The entire appeal process shall be concluded within 120 days from the time of filing.

### **1.9-1. Contempt Proceedings (Please refer to Section 1.8-1. Contested Cases, Section E)**

(a) Contempt. Should an individual fail to obey subpoena or refuse to testify or appear when requested concerning any matter under investigation or examination at a hearing or refuse to obey any order or judgment of a tribal board or commission, the agency issuing the subpoena may petition a designated tribal appeals body for enforcement of the subpoena. The petition shall include:

(1) A copy of the subpoena, order, or judgment

(2) Proof of service;

(3) The specific manner of alleged non-compliance; and

(4) A request that the appeals body issue an order to require a witness to appear and testify before the agency or commission.

(b) The Oneida Appeals Commission Action After Receipt of Petition. The Oneida Appeals Commission, upon receipt of such petition or within five (5) days of receipt shall:

(1) Enter an order directing the witness to appear before the Oneida Appeals Commission at a time and place to be set by such order; and

(2) Require that the witness at the designated time show cause why he has not responded to the subpoena, why he has refused to testify, or why he is failing to comply with an order or judgment.

(c) Action. Should it appear to the Oneida Appeals Commission that the subpoena was properly issued and that the questions the witness uses to answer are reasonable and relevant to either the contested case or a rule-making hearing, the appeals body shall:

(1) Enter an order that the witness appear at the time and place fixed in the original order; and/or

(2) Enter an order that requires the witness to testify or produce required documents and comply with the existing order; and/or

(3) Require that the person failing to appear, testify, or comply with an order pay a fine and/or be subject to a penalty as is described in this ordinance.

(d) Contempt Proceedings.

Should the person fail to comply with Section C above, said person is subject to 1.8-1(e).

### **1.10-1. Agency/commission Hearing Bodies and Contested Case Hearing Bodies Responsibility and Authority**

- (a) Responsibility. Hearing officers or their authorized agency:
- (1) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge to a tribal decision-making forum;
  - (2) Issue subpoenas;
  - (3) Rule upon offers of proof and receive relevant evidence;
  - (4) Require pre-hearing meetings;
  - (5) Regulate the course of the hearing;
  - (6) Hold conferences for the settlement or simplification of the issues;
  - (7) Dispose of procedural matters by decision;
  - (8) Take any other action authorized by tribal law consistent with this Act; and
  - (9) Issue final orders and judgments.
- (b) Authority. An agency/commission may hold a public hearing, subpoena witnesses, administer oaths, take testimony from any person under oath, and in connection with, require the production of any documents relating to the contemplated regulation when attempting to determine the need or the desire of proposing that the tribe adopt, amend, repeal, or revise rule, regulation, or proposed ordinance/rule or regulation.

### **1.11-1. Miscellaneous Administrative Rules**

- (a) Oral Proceedings. Oral proceedings shall be recorded or transcribed for the purposes of agency decision. A copy of the entire record or any part thereof, shall be furnished to any party upon their written request and payment of the costs.
- (b) Fees of Reproduction. The Oneida Business Office shall have the power to fix a reasonable fee for the cost of reproducing records required to be produced by an agency or commission subpoena which shall be paid by said agency or commission.
- (c) Subpoena. Subpoenas may be served outside the reservation to the maximum extent allowable in conformation with the requirements of the Due Process Clause of the Indian Civil Rights Act, 25 U.S.C. 1301, for purposes of long arm jurisdiction with respect to any activity occurring within the Oneida Reservation.
- (d) The Federal Rules of Civil Procedures and Evidence. The Federal Rules of Civil Procedures and Evidence may, where applicable, be used as general guides for proceedings before any agency, except as to matters covered explicitly by tribal law. The Federal Rules shall be interpreted as instructive rather than controlling in any event.

### **1.12-1. Licensing And/or Permitting and Emergency Actions**

- (a) License and/or Permit Notice of Action. Revocation, suspension, annulment, modification, or withdrawal of any license or permit is lawful, unless prior to an agency or commission proceeding, the agency gives notice, as is required by tribal law (return receipt) to the licensee of facts or conduct which warrants the intended action, and the licensee was given reasonable opportunity to show compliance with all lawful requirements (right to cure) for the retention of the license or

permit and said licensee or permittee is given notice that he/she has a right to challenge such action under the procedures of a contested case.

(b) Emergency Action. Where an agency or commission finds that protection of tribal and/or public health, safety, or welfare requires that immediate emergency action be taken, summary suspension of a license or permit may be ordered pending proceedings for revocation. Said order shall include the rationale and/or findings. Said action, (revocation or other action) shall be instituted within five (5) working days of emergency action and shall be decided upon promptly with appropriate notice to the affected licensee or permittee.

### **1.13-1. Severability, Repeal, Effective Date, Conflict with Federal Law, Limitations of Act and Compliance with Act**

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

(b) Repeal. All other Oneida Tribal laws, rules, regulations which are inconsistent with this Act and are held subject to this Act are hereby repealed but such shall not affect pending proceedings. All ordinances adopted previously shall be consistent with this Act.

(c) Effective Date. This Act shall take effect 90 days after the date of formal approval by the Oneida Business Committee.

(d) Conflict with Federal Law. Should any part of this Act be found to conflict with federal requirements which are required in order that the Oneida Tribe receive federal funds; the conflicting section of this Act is to be considered inoperative only for purposes of that particular funding and that particular conflict. Such conflict shall not affect the operation of the remainder of this Act in its application to those agencies or departments directly affected.

(e) Compliance with Act. Nothing in this Act shall be held to diminish constitutional rights of any person or to limit or repeal additional requirements imposed by or otherwise recognized by law. All requirements or privileges relating to evidence procedures shall apply equally to agencies and persons. Every agency or commission is granted authority to comply with the requirements of this Act. Subsequent tribal law shall not supersede or modify this Act or its applicability to any agency unless it is done so expressly by tribal law.

*End.*

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Adopted - GTC-8-19-91-A  
Amended - BC-9-7-94-A (Emergency Amendment)  
Amended - BC-7-5-95-K (Ratification by GTC)  
Amended - GTC-01-07-13-A