

# 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 06-22-11-I

### Amendments to Child Custody, Placement, and Visitation Law to Address Guardians Ad Litem Appointments and Conflicts of Interest

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Tribe enacted the Child Custody, Placement and Visitation Law to provide a Tribal venue for legal custody, physical placement, and visitation orders based on the facts surrounding each case and the best interest of the child; and
- WHEREAS,** a guardian ad litem is a person appointed by the Oneida Appeals Commission to appear at any peacemaking, mediation, or hearing on behalf of a child; and
- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is made of strong family relationships; and
- WHEREAS,** such strong family relationships often include not only blood relatives, but also include those who have strong in-law and social connections to particular families; and
- WHEREAS,** it is in the best interest of the Oneida children that in custody, placement and visitation proceedings the Commissioners and guardians ad litem be free from family and social relationships with interested parties in such proceedings; and
- WHEREAS,** a public hearing on the amendments was held on May 23, 2011.

**NOW THEREFORE BE IT RESOLVED,** that the following amendments to the Child Custody, Placement, and Visitation Law are hereby adopted:

#### Chapter 79 Child Custody, Placement, and Visitation

##### 79.8. Guardian Ad Litem

79.8-1. The Commission shall be responsible for establishing and administering a program for guardians ad litem.

79.8-2. *Appointment.* Except as provided for in 79.8-3, the Commission shall appoint a guardian ad litem for a child if the Commission has reason for special concern for the welfare of the child or the legal custody or physical placement of the child is contested. Preference shall be given to enrolled Tribal members.

79.8-3. The Commission is not required to appoint a guardian ad litem if:

- (a) Legal custody or physical placement is contested in an action to modify legal custody or physical placement under 79.12; and
- (b) The modification sought would not substantially alter the amount of time that a parent may spend with his or her child; and

(c) The Commission determines either of the following:

- (1) That the appointment of a guardian ad litem will not assist the Commission in the determination regarding legal custody or physical placement because the facts or circumstances of the case make the likely determination clear; or
- (2) That a party seeks the appointment of a guardian ad litem solely for a tactical purpose, or for the sole purpose of delay, and not for a purpose that is in the best interest of the child.

79.8-4. *Qualifications.*

(a) A guardian ad litem shall be an adult who:

- (1) is currently certified as a guardian ad litem, ~~is and~~ in good standing;
- (2) has never been convicted of a felony; and
- (3) has never been convicted of any crime against a child. ~~Preference shall be given to enrolled Tribal members.~~

(b) No person who ~~is an interested party in a proceeding, appears as counsel in the proceeding on behalf of any party or is a relative or representative of an interested party~~ may be appointed guardian ad litem in that proceeding who is:

- (1) an interested party;
- (2) appearing as counsel in the proceeding on behalf of any party; or
- (3) related to an interested party, an actual party, a Commissioner for the proceeding, or an appointing Commissioner. For the purposes of this section, "related to" shall include a spouse, parent, parent-in-law, stepparent, child, son- or daughter-in-law, stepchild, sibling, stepsibling, half-sibling, sibling-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, or any similar relationship by blood, adoption, marriage, or social tie that could be reasonably interpreted as a conflict of interest.

(c) A guardian ad litem may be recognized as certified by the Commission if he or she:

- (a1) has completed guardian ad litem training provided by the Commission, another Indian tribe, or a state; or
- (b2) is recognized as a certified guardian ad litem by another jurisdiction.

**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; 5 members were present at a meeting duly called, noticed and held on the 22nd day of June 2011; that the forgoing resolution was duly adopted at such meeting by a vote of 3 members for, 0 members against, and 1 member not voting; and that said resolution has not been rescinded or amended in any way.

  
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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."