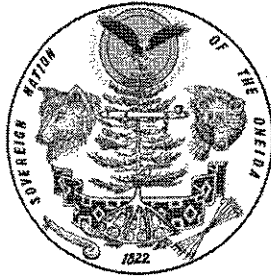


# Oneida Tribe of Indians of Wisconsin



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 07-13-11-C Adoption of the Judiciary Law

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** Oneida Business Committee Resolution 5-02-90 established the Administrative Procedures Act, Oneida Appeals Commission and the authority to establish regulations to enhance the Oneida judicial decision making process; and
- WHEREAS,** on August 19, 1991, the Oneida General Tribal Council adopted Resolution 8-19-91-A and an addendum to the Resolution, which reauthorized the adoption of the Administrative Procedures Act and the creation of the Oneida Appeals Commission; and
- WHEREAS,** the Oneida Appeals Commission has, through Tribal law, been given additional authority to hear and adjudicate additional civil and regulatory matters; and
- WHEREAS,** a restructure of the Oneida Appeals Commission, with an Oneida Judiciary comprised of a Trial Court and a Court of Appeals would better serve the needs of the Oneida people and expand the exercise of the Tribe's sovereign authority; and
- WHEREAS,** the proposed Judiciary would grant the Trial Court and Court of Appeals expanded subject matter jurisdiction and create a greater role for the use of mediation and/or peacemaking when appropriate; and
- WHEREAS,** public hearings were held for the proposed Judiciary on May 12, 2009 and July 29, 2010 in accordance with the Administrative Procedures Act; and
- WHEREAS,** 9 community meetings were held on the following dates: July 15, 2010; July 24, 2010; August 5, 2010; August 16, 2010; August 19, 2010; September 2, 2010; January 12, 2011; January 13, 2011; and January 15, 2011; and
- WHEREAS,** informational materials explaining the Judiciary were posted on the Tribal website and mailed to Oneida households on July 22, 2010, July 23, 2010, August 12, 2010, January 6, 2011, and January 7, 2011; and
- WHEREAS,** over twenty-five articles in the Kalihwisaks addressed the Judiciary proposal during calendar year 2010; and
- WHEREAS,** at the February 5, 2011 General Tribal Council meeting, the Legislative Operating Committee was directed to formulate a work group consisting of any and all interested parties to bring back to the General Tribal Council clearer and more precise options in the Judiciary law, as were discussed at that meeting; and
- WHEREAS,** a work group met throughout March, April and May of 2011 to create additional amendments to the draft Judiciary law and presented recommended amendments to the General Tribal Council on May 23, 2011, where it was again tabled; and
- WHEREAS,** the work group continued to meet to address additional amendments regarding the effective dates

of the Judiciary law and the Transition Plan.

**NOW THEREFORE BE IT RESOLVED**, that the attached Judiciary law is hereby adopted and shall be effective January 2, 2014.

**BE IT FURTHER RESOLVED**, that there shall be no further elections for the office of Oneida Appeals Commissioner.

**BE IT FURTHER RESOLVED**, that the Oneida Business Committee is hereby directed to implement a Transition Plan to include the following:

(1) *Elections*. The elections for judges shall be held during the 2014 general election. The election process shall follow the Oneida Election Law and the judges shall be elected to the Judiciary as follows:

(a) The candidate for Chief Judge of the Trial Court with the highest number of votes shall be elected to a term of six (6) years.

(b) The one (1) candidate for Trial Court judge with the highest number of votes shall be elected to a term of six (6) years.

(c) The two (2) candidates for Trial Court judge with the next highest number of votes shall each be elected to terms of three (3) years.

(d) The candidate for Chief Judge of the Court of Appeals with the highest number of votes shall be elected to a term of six (6) years.

(e) The two (2) candidates for Court of Appeals judge with the highest number of votes shall each be elected to terms of six (6) years.

(f) The two (2) candidates for Court of Appeals judge with the next highest number of votes shall each be elected to terms of three (3) years.

(g) In the event of any tie vote, the provisions of the Oneida Election Law for resolving a tie vote shall determine the outcome.

(2) *Swearing in*. Judges shall be sworn into office during the 2014 Oneida Business Committee inauguration and in accordance with the Oneida Election Law.

(3) *Training and Education*. Judges shall complete sixty (60) hours of judicial training and education by November 1, 2014. Prior judicial training and education shall count toward this requirement.

(4) *Court Opening*. The Judiciary shall accept cases that are filed with the Trial Court and the Court of Appeals beginning on November 1, 2014.

(a) Beginning November 1, 2014, the Oneida Appeals Commission shall no longer accept new filings and shall notify all parties to any case on its docket that the Oneida Appeals Commission will be dissolved on February 1, 2015. The Oneida Appeals Commission shall also notify the parties that:

(i) They have the option of having their case transferred to the Judiciary;

(ii) If they do not request a transfer to the Judiciary, their case will remain with the Oneida Appeals Commission until it is concluded or until February 1, 2015, whichever occurs first; and

(iii) If their case is not concluded as of February 1, 2015, the case will be dismissed without prejudice and the parties may re-file in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case.

(b) *Transfer of Cases*.

(i) If the parties disagree as to whether their case should be transferred, the Oneida Appeals Commission shall determine where the case will be heard.

(ii) All cases transferred to the Judiciary shall be heard in accordance with the Judiciary's applicable rules of procedure.

(iii) Cases transferred in accordance with this Resolution shall not be subject to any transfer or filing fees.

(5) *No Dual Office Holding*. It is impermissible for an individual to hold simultaneously the offices of Oneida Appeals Commissioner and judge or Chief Judge. An Oneida Appeals Commissioner who runs for and is elected to the office of judge or Chief Judge, shall, prior to swearing in to such new office, resign from the Oneida Appeals Commission. Pending case assignments of the resigning Appeals Commissioner(s) shall be re-assigned to another Appeals Commissioner.

(a) The Oneida Appeals Commission may appoint pro tem judges to the Oneida Appeals Commission during the Transition Period, as necessary to conduct business.

(b) Prior to the 2014 general election, the Oneida Appeals Commission shall select and identify one (1) remaining Appeals Commissioner to take over the duties of the Chief Judicial Officer as necessary, as of the date that Judges are sworn in to office and lasting until the Commission is finally dissolved.

(i) If no Commissioner is able or willing to remain and to take such responsibilities, then the Commission shall identify one (1) pro tem judge to serve in such capacity.

(6) *Dissolution of the Oneida Appeals Commission*. The Oneida Appeals Commission shall be dissolved February 1, 2015.

(a) The Oneida Appeals Commission shall make a good faith effort to conclude the cases that remain on its

docket prior to its dissolution.

(b) Any cases not concluded by the Oneida Appeals Commission on or before February 1, 2015 shall be dismissed without prejudice and may be re-filed in the Trial Court or Court of Appeals, as is appropriate and if the Court is authorized to hear the case. Individuals who re-file a case in accordance with this Resolution shall not be subject to any filing fees.

(7) *Appeals Commission Personnel.* Oneida Appeals Commission personnel who are not Appeals Commissioners shall carry over into the Judiciary and shall simultaneously work for both entities during the Transition Period and then for the Judiciary after the Transition Period has concluded.

**BE IT FURTHER RESOLVED**, that the following canons, procedures, codes and amendments shall be adopted in accordance with the time lines set out below:

- (1) By July 2012, adoption of Canons of Judicial Ethics by the General Tribal Council.
- (2) By January 2013, adoption by the Oneida Business Committee or the General Tribal Council of the following:
  - (a) Rules of Civil Procedure;
  - (b) Rules of Appellate Procedure;
  - (c) Small Claims Procedure;
  - (d) Evidence Code; and
  - (e) Administrative procedures for the Judiciary. After the initial adoption of these administrative procedures, the Judiciary shall be responsible for maintaining and amending them.
- (3) By January 2013, adoption by the Oneida Business Committee of amendments to Tribal laws, except for the Removal Law and Oneida Election Law, to substitute references to the Oneida Appeals Commission with terms consistent with the Judiciary. This may be accomplished in one resolution which identifies all the necessary amendments.
- (4) By July 2013, adoption by the General Tribal Council of amendments to the following laws to substitute references to the Oneida Appeals Commission with terms consistent with the Judiciary:
  - (a) Removal Law; and
  - (b) Oneida Election Law.

**BE IT FURTHER RESOLVED**, that sections 1.9-1 through 1.1-17 of the Administrative Procedures Act are hereby repealed, effective February 1, 2015.

**BE IT FURTHER RESOLVED**, that beginning with the Fiscal Year 2014 budget, the expenses associated with the implementation and maintenance of the Judiciary shall be included in the Tribe's annual budget.

**BE IT FINALLY RESOLVED**, that the Oneida Business Committee is authorized to such modifications and additions to the above Transition Plan as it deems necessary to implement the Judiciary in accordance with the proposed timelines, and shall subsequently file a report at the annual or semi-annual meeting of the General Tribal Council that occurs after the modifications or additions are made.

#### 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; 6 members were present at a meeting duly called, noticed and held on the 13<sup>th</sup> day of July 2011; that the forgoing resolution was duly adopted at such meeting by a vote of 5 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

  
Patricia Hoefft, Tribal Secretary  
Oneida Business Committee

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