



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA-REVISED

Business Committee Conference Room-2nd Floor Norbert Hill Center

February 15, 2017 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. February 1, 2017 LOC Meeting Minutes
- III. Current Business**
 - 1. Rules of Administrative Procedure
- IV. New Submissions**
- V. Additions**
 - 1. Per Capita Law Amendments
- VI. Administrative Updates**
 - 1. February 1, 2017 Minutes; Enter E-Poll Results into the Record
 - 2. Code of Laws Reorganization Project
 - 3. Active Files List Updates
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center
February 1, 2017 9:00 a.m.

Present: Brandon Stevens, David P. Jordan, Fawn Billie, Jennifer Webster, Tehassi Hill

Others Present: Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner, Krystal John, Jennifer Falck, Rae Skenandore, Nancy Barton, Mike Debraska, Danelle Wilson, Mary Cornelissen, Brad Graham, Leyne Orosco, Robert Collins II

I. Call to Order and Approval of the Agenda

Brandon Stevens called the February 1, 2017 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. January 18, 2017 LOC Meeting Minutes

Motion by David P. Jordan to approve the January 18, 2017 LOC meeting minutes; seconded by Jennifer Webster. Motion carried with Tehassi Hill abstaining.

III. Current Business

1. Real Property Law Amendments (00:57-01:30)

Motion by David P. Jordan to accept the Real Property Law Amendments adoption packet and forward to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

2. Conflict of Interest Amendments (01:30-06:40)

Motion by Fawn Billie to approve the Conflict of Interest Amendments adoption packet and forward to the Oneida Business Committee for consideration; seconded by Tehassi Hill. Motion carried unanimously.

Motion by David P. Jordan to approve the Conflict of Interest emergency amendments extension resolution and forward to the Oneida Business Committee for consideration, noting that if the Oneida Business Committee does not approve the Conflict of Interest Amendments the emergency amendments will need to be extended for another six months; seconded by Jennifer Webster. Motion carried unanimously.

3. Drug and Alcohol Free Workplace Policy Amendments (06:40-08:03)

Motion by Fawn Billie to approve the meeting packet including the fiscal impact statement when complete and forward the Drug and Alcohol Free Workplace Policy Amendments to a public meeting to be held on March 2, 2017; seconded by David P. Jordan. Motion carried unanimously.

Legislative Operating Committee Meeting Minutes of January 18, 2017

4. **Budget Management and Control** (08:03-13:43)

Motion by Tehassi Hill to accept the Budget Management and Control Law adoption packet, including the fiscal impact statement, and forward to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

5. **Probate Law** (13:43-14:17)

Motion by Tehassi Hill to remove the Probate Law from the Legislative Operating Committee's active files list; seconded by David P. Jordan. Motion carried unanimously.

6. **Independent Contractor Policy Amendments** (14:17-24:16)

Motion by Fawn Billie to accept the draft Independent Contractor Policy amendments and forward for a legislative and fiscal analysis to be completed by February 23, 2017; seconded by Tehassi Hill. Motion carried unanimously.

7. **Landlord-Tenant Amendments** (24:16-28:46)

Motion by Jennifer Webster to direct the Finance Department to complete a fiscal impact statement by February 15, 2017 and to approve the public meeting packet, including the fiscal impact statement when completed, and forward the Landlord-Tenant law amendments to a public meeting to be held on March 2, 2017; seconded by Tehassi Hill. Motion carried unanimously.

IV. New Submissions

1. **Petition: Benton-Change Pre-employment Drug Testing** (28:46-29:55)

Motion by Fawn Billie to add the Petition: Benton-Change Pre-employment Drug Testing to the active files list with Fawn Billie as the sponsor; seconded by David P. Jordan. Motion carried unanimously.

V. Additions

1. **Landlord-Tenant Rules Extension Request** (29:55-35:15)

Motion by Tehassi Hill to forward the Landlord-Tenant Rules Extension Resolution to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

2. **Eviction and Termination Rules Extension Request** (35:15-37:25)

Motion by Tehassi Hill to forward the Eviction and Termination Rules Extension Resolution to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

3. **Landlord-Tenant Rule No. 2 Certification** (37:25-01:21:14)

Motion by David P. Jordan to defer the Landlord-Tenant Rule No. 2 Certification to the Legislative Operating Committee Chairperson's Office to write a memorandum to the Oneida Housing Authority identifying how the Landlord-Tenant Rule No. 2 does not comply with the Administrative Rulemaking law; seconded by Jennifer Webster. Motion carried with Tehassi Hill opposing.

Motion by Tehassi Hill to incorporate the Landlord-Tenant Rule No. 2 extension into the Landlord-Tenant Rules Extension Resolution; seconded by Fawn Billie. Motion carried unanimously.

VI. Administrative Updates

1. Employment Law Postcard (01:21:14-01:22:45)

Motion by Tehassi Hill to accept the information regarding the Employment Law Postcard; seconded by David P. Jordan. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by David P. Jordan to adjourn the February 1, 2017 Legislative Operating Committee meeting at 10:23 a.m.; seconded by Fawn Billie. Motion carried unanimously.



Legislative Operating Committee
February 15, 2017

Rules of Administrative Procedure

Submission Date: 5/4/16	Public Meeting: n/a
LOC Sponsor: Brandon Stevens	Emergency Enacted: n/a Expires: n/a

Summary: *This is a request to create Rules of Administrative Procedure to govern Judiciary hearings that involve actions and decisions made by entities of the Nation.*

5/4/16 LOC: Motion by Fawn Billie to add the Rules of Administrative Procedure to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously.

Note: Brandon Stevens will be the sponsor for this item.

7/6/16 LOC: Motion by Tehassi Hill accept the memorandum as FYI and defer the Rules of Administrative Procedure back to the sponsor to bring back when ready; seconded by David P. Jordan. Motion carried unanimously.

8/12/16: Work meeting held. Attorney will update draft then contact LRO Director to schedule work meeting.

10/19/16: Quarterly Sponsor Update Meeting. Present: Brandon Stevens, Jennifer Falck, Clorissa Santiago, Maureen Perkins, and Tani Thurner. LRO Director will schedule work meeting with Judiciary and Personnel Commission to develop a work calendar.

11/29/16: Meeting with Personnel Commission & Judiciary held. Present: Gary Smith, Pearl Webster, Sharon Alvarez, Yvonne Jourdan, Gina Buenostro, Bridget M. Cornelius, Eric Krawczyk, Carol L. Smith, Tomas Escamea, Denice Beans, John E. Powless III, Layatalati Hill, Fawn Billie, Jenny Webster, Tehassi Hill, Raeann Skenandore, David Jordan, Jen Falck, Tani Thurner, Maureen Perkins, Clorissa Santiago, Candice Skenandore, Jen Falck. Discussion focused on questions about the current draft the Employment Law and on how to move forward in transition- using the Rules of Administrative procedure. Group discussed using the same transition that was used to move from Appeals Commission to Judiciary.

2/3/17: Work meeting held. Attendees include: Brandon Stevens, Jennifer Falck, Tani Thurner, Candice Skenandore, Hon. Denice Beans, Hon. John Powless, Hon. Jerry Hill, Kristina Danforth, Jean Webster.

Next Steps: Review the memo and consider removing Rules of Administrative Procedure from the Active Files List.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
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TO: Legislative Operating Committee
FROM: Brandon Stevens, LOC Chair *BS*
DATE: February 15, 2017
RE: Rules of Administrative Procedure

BACKGROUND

The Rules of Administrative Procedure (RAP) law was placed on the Active Files List on May 5, 2016. At the time, the LOC felt that RAP would be necessary to govern Judiciary hearings that involve actions and decisions made by entities of the Nation. The law would be designed to administer hearings after hearing bodies transferred their hearing responsibilities to the Judiciary. And specifically, it would be prepared before the Employment Law was adopted, so that hearing authority could be transferred from the Personnel Commission to the Judiciary.

UPDATE

On February 2, 2017, a meeting was held to discuss a preliminary draft of the RAP with The Oneida Judiciary. Those present were;

Brandon Stevens, LOC Chair & RAP Sponsor	Jean Webster, Asst. Court Clerk
Jennifer Falck, LRO Director	Hon. John Powless III, Trial Court
Christina Danforth, Court Clerk	Candice Skenandore, LRO Analyst
Hon. Denice Beans, Trial Court	Tani Thurner, LRO Drafting Attorney
Hon. Jerry Hill, Appellate Court	

There was a general consensus from the Judiciary that;

1. The Rules of Civil Procedure (RCP) are adequate and can function to serve both civil and administrative hearings.
2. The RAP as drafted is different from the RCP, and that may be confusing to people using the Judiciary, particularly those that self-represent.
3. The Judiciary is working hard to educate the public how to use RCP, and adding the RAP will cause confusion.
4. Many of the people using the Judiciary are self-representing, meaning they are not hiring attorneys to represent them. The laws that set out court proceedings and process should be designed with that in mind.

5. Prior to the development of the Judiciary, users were confused as to which rules to use. Since it's establishment, people are understanding the process. Adding a second law (RAP) will create confusion again.
6. The Mortgage & Foreclosure law refers to the Rules of Appellate Procedure. That is a simple way to direct the user to the right process.

MOVING FORWARD

The Judiciary could change its internal processes and/ or add to the Oneida Trial Court Rules to address hearing body activities.

REQUESTED ACTION

Remove the Rules of Administrative Procedure law from the Active Files list.



Legislative Operating Committee
February 15, 2017

Per Capita Law Amendments

Submission Date: 7/10/15	Public Meetings: 05/19/2016 06/16/2016 12/15/2016
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *This request from the Trust Enrollment Department was submitted to clarify several provisions of the law, modify the frequency of form requirements and in elder distributions, and incorporate fees for stop payments and closed bank accounts.*

7/15/15 LOC: Motion by Jennifer Webster to add the Per Capita Law Amendments to the active files list with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

9/16/15 LOC: Motion by David P. Jordan to accept the update as FYI and defer the Per Capita Law Amendments to the Legislative Reference Office and to bring back in 30 days for an update; seconded by Fawn Billie. Motion carried unanimously.

10/21/15 LOC: Motion by David P. Jordan to accept the memorandum as FYI and to defer the Per Capita Law Amendments to the sponsor to continue to work with the Trust Enrollment Committee and to bring a draft back on November 4, 2015; seconded by Fawn Billie. Motion carried unanimously.

10/23/15: Work meeting held, attendees include: Cheryl Skolaski, David P. Jordan, Caroyl Long, Douglass McIntyre, Bonnie Pigman, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore.

10/26/15: Work meeting held, attendees include: Caroyl Long, Bonnie Pigman, Misty Cannon, Leyne Orosco, Lisa Kelly Skenandore, Candice Skenandore, Susan White, Krystal John.

11/4/15 LOC: Motion by Jennifer Webster to defer to Legislative Reference Office for legislative analysis and fiscal impact; seconded by Fawn Billie. Motion carried unanimously.

2/3/16 LOC: Motion by Tehassi Hill to defer the Per Capita Law Amendments to a work meeting with the Trust Enrollment Department, the Finance Department, Law Office and the sponsor and bring back to the LOC within the next 30 days; seconded by David P. Jordan. Motion carried unanimously.

3/2/16 LOC: Motion by Jennifer Webster to accept the Per Capita Law Amendments status update memorandum and defer to the sponsor to bring back an updated draft with an updated legislative analysis; seconded by Tehassi Hill. Motion carried unanimously.

- 4/6/16 LOC:** Motion by Jennifer Webster to prepare the Per Capita Law Amendments for a public meeting to be held on May 19, 2016; seconded by David P. Jordan. Motion carried unanimously.
- 4/20/16 LOC:** Motion by Tehassi Hill to enter the April 7, 2016 e-poll results for the Per Capita Law Amendments; seconded by Fawn Billie. Motion carried unanimously.
Note: the April 7th 2016 e-poll directed the Legislative Reference Office to update the draft Per Capita Law Amendments and legislative analysis to include the revisions discussed in the memo.
Motion by Tehassi Hill to approve the Per Capita Law Amendments Public Meeting packet, noting one update to be made to the legislative analysis, and deleting one definition from the draft law; seconded by Fawn Billie. Motion carried unanimously.
Note: the update to the legislative analysis would identify one additional new duty of the Trust Enrollment Department: calculating the amount of attachments. The definition to be deleted is for "proof of education", since there are duplicate definitions.
- 5/19/16:** *Public Meeting held.*
- 6/1/16 LOC:** Motion by David P. Jordan to accept the results of the e-poll conducted on May 19, 2016 which approved the public meeting packet for an additional public meeting to be held for the Per Capita Law amendments on June 16, 2016 at 12:15 p.m.; seconded by Jennifer Webster. Motion carried unanimously.
Note: This will be the second public meeting for Per Capita Law Amendments.
- 6/16/16:** *Public Meeting held.*
- 7/6/16 LOC:** Motion by Tehassi Hill to accept the public meeting comments regarding the Per Capita law amendments from the May 19, 2016 and June 16, 2016 public meetings and direct desired changes; seconded by David P. Jordan. Motion carried unanimously.
Note: Directed change: remove the word automatic from section 123.6-1(d)(1)(C)(i).
- 7/25/16:** Work Meeting held. Meeting held for an update on the status of this item. Attendees include Maureen Perkins, Jen Falck, Tani Thurner, Jo Anne House.
- 10/13/16:** Quarterly Sponsor Update Meeting held. Present: David Jordan, Krystal John, Leyne Orosco, Tani Thurner, Maureen Perkins, Clorissa Santiago. Waiting for new draft.
- 10/24/16:** Work Meeting held. Present: David Jordan, Krystal John, Jennifer Falk, Jo Anne House, Maureen Perkins. Changes directed.
- 11/2/16LOC:** Motion by Fawn Billie to defer the Per Capita Law Amendments to the November 16, 2016 Legislative Operating Committee meeting; seconded by Jennifer Webster. Motion carried unanimously.
- 11/16/16LOC:** Motion by David P. Jordan to approve the Per Capita Law Amendments public meeting packet and direct the LRO to hold a public meeting on December 15, 2016; seconded by Jennifer Webster. Motion carried unanimously.
- 12/15/16** *Public Meeting held.*
- 01/04/17LOC:** Motion by Tehassi Hill to accept the Per Capita Law Amendments public meeting

comments; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Fawn Billie to defer the Per Capita Law Amendments public meeting comments to a work meeting to commence directly after the conclusion of the January 4, 2017 LOC meeting; seconded by Jennifer Webster. Motion carried unanimously.

01/04/17: Work meeting held. Brandon Stevens, Tehassi Hill, Fawn Billie, Jennifer Webster, David P. Jordan, Mike Debraska, Susan White, Maureen Perkins, Jennifer Falck, Krystal John.

1/18/17 LOC: Motion by David P. Jordan to approve the adoption packet with the noted changes and forward the Per Capita Law Amendments to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

Noted changes include adding definition for “rule”, clarifying that the Trust Enrollment Department is not managing the pooled accounts but identifying what funds are available to be released into the pooled account and to include GTC in section 123.2-2.

1/25/17 OBC: Motion by David Jordan to adopt resolution entitled Per Capita Amendments, seconded by Brandon Stevens. Motion failed with Chairwoman Tina Danforth voting in opposition breaking the tie.

Motion by Lisa Summers for this item to be deferred to the February 14, 2017, Business Committee work meeting; and to be brought back to the February 22, 2017, regular Business Committee meeting, seconded by Jennifer Webster. Motion carried unanimously.

2/14/17 OBC: OBC Work meeting held.

Next Steps:

- Review the adoption packet with the noted changes and forward the Per Capita Law Amendments to the Oneida Business Committee for consideration.

Title 1. Government and Finances – Chapter 123

PER CAPITA

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Issues concerning where they give the money

123.1. Purpose and Policy
123.2. Adoption, Amendment, Repeal
123.3. Definitions
123.4. General

123.5. Distributions
123.6. Minor/Majority Age Beneficiaries and Legally Incompetent Adults
123.7. Per Capita Actions

123.1. Purpose and Policy

123.1-1. *Purpose.* The purpose of this law is:

- (a) To specify the procedure to be followed in the event that per capita payments are distributed by the Nation; and
- (b) To clearly state the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments.

123.1-2. *Policy.* It is the policy of the Nation to have a consistent methodology for distribution of per capita payments, including payments derived from gaming revenues and regulated by IGRA.

123.2. Adoption, Amendment, Repeal

123.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D and _____.

123.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

123.2-3. 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.

123.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that this law repeals Oneida Business Committee resolution 11-06-02-A.

123.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

123.3. Definitions

123.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Adult” means a Tribal member who is at least eighteen (18) years of age on or before September 1st of a given year.
- (b) “Arrears” means the amount of money a Tribal member has not paid pursuant to the most recent child support court order against him or her.
- (c) “Court of competent jurisdiction” means the Judiciary, a state or federal court or another court recognized by the Judiciary as having the jurisdiction to hear and determine a particular legal proceeding.
- (d) “Day” means calendar days, unless otherwise specifically stated.
- (e) “Debtor” means a Tribal member owing a debt to an Oneida entity.
- (f) “Direct Deposit” means the electronic distribution of funds.
- (g) “Distribution” means the transfer of funds to Tribal members.
- (h) “IGRA” means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.

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- (i) “Judiciary” means the Nation’s judicial system, which includes the Family Court, Trial Court and/or Appellate Court.
- (j) “Legally Incompetent Adult” means a Tribal member who is at least eighteen (18) years of age and has been declared incompetent by a court of competent jurisdiction pursuant to applicable law.
- (k) “Majority Age Beneficiary” means a Tribal member who has reached eighteen (18) years of age by September 1st and is eligible to claim a trust account for the first time in the distribution year.
- (l) “Minor Beneficiary” means a Tribal member who is less than eighteen (18) years age.
- (m) “Nation” means the Oneida Nation.
- (n) “Oneida Entity” means a department, board, committee, commission or chartered corporation of the Nation or the Judiciary.
- (o) “Outstanding Check” means a check that has been written by the Nation, but has not yet cleared the bank on which it was drawn.
- (p) “Per Capita Payment” means the amount authorized by the General Tribal Council to be distributed to Tribal members.
- (q) “Pooled Account” means the account set up by the General Tribal Council or Oneida Business Committee, through resolution, for the purpose of managing undistributed funds pursuant to the Nation’s laws.
- (r) “Proof of Education” means the documents identified in Article III of the Per Capita Trust Agreement as acceptable to demonstrate that the tribal member has received a high school diploma or its equivalent.
- (s) “Rule” means a set of requirements enacted by the Trust Enrollment Committee and/or the Trust Enrollment Department in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.
- (t) “Tribal Member” means an individual who is an enrolled member of the Nation.
- (u) “Trust Account” means an account(s) established by the Trust Enrollment Committee for the purpose of maintaining per capita funds for persons pursuant to the Nation’s revenue allocation plan, which includes, but is not limited to, minor beneficiaries and legally incompetent adults.
- (v) “Trust Enrollment Committee” means that body designated by the General Tribal Council to manage the trust funds for the Nation on behalf of Tribal members, and which is also responsible for the Nation’s enrollment records.
- (w) “Trust Fund Accountant” means the third party professionals hired by the Trust Enrollment Committee to oversee trust accounts established pursuant to this law.

123.4. General

123.4-1. This section sets forth the responsibilities delegated under this law.

123.4-2. *Supersedes.* This law supersedes any contradictory language contained in any other per capita payment plan.

123.4-3. *Budgetary Limitations.* This law may not be construed as mandating a per capita payment; per capita payments may only be issued at the direction of the General Tribal Council through adoption of a resolution.

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123.4-4. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) Identify and allocate funds available for per capita payments;
- (b) Forward approved revenue allocation plans to the Bureau of Indian Affairs;
- (c) Transfer funds to the appropriate Oneida entity(ies) pursuant to the Nation's laws within a reasonable time frame;
- (d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this in this sub-section; and
- (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Trust Enrollment Committee.

123.4-5. *Trust Enrollment Committee.* The Trust Enrollment Committee shall:

- (a) Manage trust accounts related to per capita payments with fiduciary responsibility;
- (b) Maintain the Nation's membership rolls so that the Trust Enrollment Department can accurately identify which Tribal members are eligible for distribution;
- (c) Provide input to the Finance Department regarding per capita matters included in the Nation's revenue allocation plan;
- (d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this sub-section; and
- (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Oneida Business Committee.

123.4-6. *Trust Enrollment Department.* When a per capita payment is approved, the Trust Enrollment Department shall:

- (a) Develop and finalize a list of the eligible distribution recipients broken down into the following categories: minor beneficiaries, majority age beneficiaries, legally incompetent adults, adults and elders. For the purposes of this section, elder means a Tribal member who meets the age requirements as of December 31st of a given year to be eligible for an elder distribution as determined by the effective General Tribal Council Resolution.
- (b) Provide the finalized list of Tribal members eligible to receive the distribution to the Oneida Accounting Department and trust fund accountant.
- (c) Send membership distribution and trust account forms and receipts related to approved per capita payments.
- (d) Manage and maintain the Enrollment Database including, but not limited to, membership and distribution information.
- (e) Process the distribution data and forward the data to the Oneida Accounting Department and trust fund accountant.
- (f) Ensure the availability and liquidity of funds for transfer of the trust funds under the authorization of the Trust Enrollment Committee.
- (g) Provide fund transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Department.
- (h) Work with the Trust Enrollment Committee to establish any necessary trust accounts.
- (i) Monitor all trust accounts for the purposes of necessary reporting, claims and distribution verification.
- (j) Record issued, voided, redeemed, and outstanding check distributions in the Enrollment Database.

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(k) Complete trust account reconciliations.

(l) Calculate attachment amounts for collection of Oneida entity debts and implement Oneida entity attachments.

123.4-7. *Oneida Accounting Department.* When a per capita payment is approved, the Oneida Accounting Department shall:

(a) Initiate and complete the funds transfer upon receipt of funds transfer instructions from the authorizing Oneida entity and shall ensure that the physical movement of funds happens no later than one (1) business day prior to the distribution date.

(b) Record issued, voided and outstanding check distributions on the general ledger.

(c) Complete bank account reconciliations.

(d) Process per capita distribution to the payables ledger.

(e) Perform all activities related to fiscal and calendar year end processes, including providing tax documents and tax reporting as required by applicable law.

(f) Submit notice of any fees associated for reissuance of a distribution to the Trust Enrollment Department, in accordance with sections 123.5-2(d)(1) and 123.5-2(d)(2).

123.4-8. *Tribal Treasurer.* The office of the Oneida Treasurer shall identify funds and shall timely transfer the necessary amount of relevant funds to the Trust Enrollment Committee, the trust fund accountant and the Oneida Accounting Department.

123.4-9. *Attachments.* Per capita payments are benefits offered by the Nation to Tribal members. All per capita payments, except distributions to or from a trust account for a beneficiary, may be subject to attachment prior to distribution in accordance with this section. Entities seeking to attach a per capita payment shall follow the timelines identified in this law.

(a) Per capita payments may only be attached for the following purposes, and in the following order:

(1) Child support arrears ordered by a court of competent jurisdiction. After child support arrears are fully satisfied, the Trust Enrollment Department shall apply any remaining per capita payments for the payment of debt owed to an Oneida entity.

(A) If a Tribal member owes arrears in more than one (1) child support order, the Oneida Nation Child Support Agency shall equally divide the per capita payment based on the number of court orders under which arrears are owed.

(2) Debt owed to an Oneida entity that is past due. After child support arrears and debt owed to an Oneida entity have been fully satisfied, the Trust Enrollment Department shall apply any remaining per capita payment for the payment of a federal tax levy.

(A) “Debt owed to an Oneida entity” includes any money owed to an Oneida entity and any fines that have been issued by an Oneida entity.

(B) If a Tribal member owes debt to more than one (1) Oneida entity, the Trust Enrollment Department shall equally divide the per capita payment based on the number of Oneida entities that are owed debt.

(3) A federal tax levy.

(b) If the amount of the per capita payment exceeds the amount of the attachment, the

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Trust Enrollment Department shall distribute the remaining balance to the Tribal member, provided the Tribal member has met the distribution requirements contained in this law. If there is a remaining unclaimed balance, the Tribal member may request it to be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall deposit any remaining refused balance in accordance with 123.5-5.

(c) *Child Support Attachments.* Claimants or their designated representative shall submit all requests for attachments for child support arrears to the Oneida Nation Child Support Agency.

(1) After receiving an initial attachment request for child support arrears, the Oneida Nation Child Support Agency shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal members whose per capita payment will be attached for child support arrears.

(2) The Oneida Nation Child Support Agency shall prepare a certified accounting of all attachment requests and forward the accounting to the Judiciary.

(3) The Trust Enrollment Department may not process an attachment of a Tribal member's per capita payment to collect child support arrears without first having received an order of determination issued by the Judiciary.

(4) After the child support arrears have been satisfied, if an attachment request is submitted for the same Tribal member's per capita payment based on new child support arrears, the Oneida Nation Child Support Agency shall issue another one-time notice and federal income tax withholding form in accordance with 123.4-9(c)(1).

(d) *Oneida Entity Debt Attachments.* Oneida entities are not required to receive an attachment order from the Judiciary prior to initiating a per capita payment attachment unless an attachment hearing is requested under section 123.4-9(d)(5).

(1) *Notice of Indebtedness.* Prior to initiating an attachment, the Oneida entity owed the debt shall provide written notice of indebtedness to the debtor by first (1st) class mail at the debtor's last known address.

(A) *Frequency of Notice.* Oneida entities shall send debtors notice of indebtedness for each month a debt is owed with each notice being sent a minimum of thirty (30) calendar days apart. Oneida entities shall send two (2) consecutive monthly notices prior to the debt becoming eligible for attachment.

(B) *Notice Content.* Oneida entities shall include the following in their notices of indebtedness:

(i) How many notices of indebtedness have been provided prior to the subject notice and the dates of all prior notices;

(ii) The amount of the debtor's indebtedness;

(iii) Information for making payment on the debt; and

(iv) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the second consecutive monthly notice, the entity may initiate an automatic attachment of the Tribal member's per capita payment.

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(2) *Initiating an Attachment.* After thirty (30) calendar days have lapsed since the Oneida entity sent the second consecutive monthly notice of indebtedness, the Oneida entity may initiate an attachment by providing the debtor with a final notice of indebtedness with intent to attach. The Oneida entity shall send the final notice to the debtor by certified mail. Additionally, the Oneida entity shall post notice of intent to attach in the Nation's newspaper, where such notice includes only the debtor's name, the Oneida entity owed a debt and the Oneida entity's contact information for payment. The Oneida entity shall submit its request to post to the newspaper at the same time as the final notice with intent to attach is mailed in order to ensure that notice is posted in the newspaper a minimum of ten (10) business days before the close of the debtor's thirty (30) calendar day time period to resolve the debt or request an attachment hearing.

(A) The Oneida entity shall include the following in the final notice of indebtedness with intent to attach:

(i) The dates of all prior notices of indebtedness provided to the debtor;

(ii) The amount of the debtor's indebtedness;

(iii) Information for making payment on the debt;

(iv) An explanation that this is the final notice and the Oneida entity has by this final notice initiated an attachment against the debtor;

(v) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the final notice of indebtedness with intent to attach that the Trust Enrollment Department will automatically attach the debtor's available per capita payment in order to satisfy the debt;

(vi) An explanation that the debtor may request an attachment hearing with the Judiciary to contest the validity of the debt by submitting a petition to the Judiciary within thirty (30) calendar days from the date of the of the final notice of indebtedness with intent to attach and that the debtor is responsible for any filing fees required by the Judiciary; and

(vii) A membership distribution form which the debtor shall submit to the Trust Enrollment Department no later than September 1st in order for voluntary federal income taxes to be withheld.

(B) *Attachment Deadlines.* In order for the Trust Enrollment Department to process an attachment for a current per capita payment distribution, Oneida Entities shall:

(i) Send the Trust Enrollment Department a one-time final accounting of all debts subject to attachment no later than July 31st, provided that, in order for a debt to be included in the final accounting, the Oneida entity's shall have sent the debtor a final

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notice of indebtedness with intent to attach in which the debtor's thirty (30) day period to resolve the debt or request an attachment hearing with the Judiciary expires on or before July 31st; and
(ii) Receive, review and respond to the withholding report, in accordance with the deadline provided by the Trust Enrollment Department.

(3) *Calculating the Attachment Amount.* The Trust Enrollment Department shall determine the amount of per capita payment attachment based on the order provided in section 123.4-9(a).

(4) *Payment of Debt Prior to Attachment.* A debtor may make payments towards a debt subject to attachment at any time.

(A) Oneida entities shall keep record of all debtors payments and shall only include unpaid debts in their final accounting submitted to the Trust Enrollment Department.

(B) Once the Oneida entity has submitted the final accounting to the Trust Enrollment Department, the attachment amount may not be modified. If a debtor makes a payment towards a debt subject to attachment after the final accounting has been submitted to the Trust Enrollment Department, the Oneida entity shall reimburse the debtor for payments received in excess of the amount of the debt noticed to the debtor within thirty (30) calendar days from its receipt of the per capita payment attachment.

(5) *Requesting an Attachment Hearing.* A debtor may request an attachment hearing with the Judiciary to contest the validity of the debt by submitting a petition to the Judiciary within thirty (30) calendar days from the date of the final notice of indebtedness with intent to attach, provided that the debtor shall include a copy of the final notice of indebtedness with intent to attach with the petition.

(A) The debtor shall pay any filing fees required by the Judiciary before the Judiciary may consider the petition complete.

(B) When a request for an attachment hearing is timely made, the Oneida entity is still not required to obtain a judgment, but shall receive an attachment order before the Trust Enrollment Department may attach a per capita payment to collect debt owed to the Oneida entity.

(6) *Multiple Attachments.* If a single per capita payment is not sufficient to satisfy the debt owed to an Oneida entity, the Oneida entity shall follow the process contained in section 123.4-9(d)(1)-(5) for each per capita payment it seeks to attach.

(e) *Federal Tax Levy Attachments.* Claimants or their designated representatives shall submit all requests for attachments for a federal tax levy to the Judiciary. The Trust Enrollment Department may not process an attachment of a Tribal member's per capita payment to collect a federal tax levy without first having received an order of determination from the Judiciary.

(f) The Judiciary may order and the Trust Enrollment Department may process attachments against per capita payments of Tribal members who do not return a notarized

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membership payment form as required under 123.5-2(b)(1) or who refuse a payment under 123.5-2(f). If the amount of the per capita payment exceeds the amount of the attachment resulting in a remaining unclaimed balance, the Tribal member may request it to be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall deposit any remaining refused balance in accordance with 123.5-5.

123.4-10. *Federal Income Tax Withholding.*

(a) *Voluntary.* The Trust Enrollment Department shall withhold federal income taxes from a distribution only when the following applies:

(1) Tribal members whose per capita payment is not subject to attachment in accordance with section 123.4-9 may voluntarily request to have federal income tax withheld, provided that Tribal members shall make such requests in accordance with the applicable distribution deadlines.

(2) If the Trust Enrollment Department receives a timely voluntary request to have federal income tax withheld from a Tribal member whose per capita payment is subject to attachment in accordance with section 123.4-9, the Trust Enrollment Department shall apply the federal income tax withholding to the applicable distribution before any attachments are applied.

(b) *Mandatory.* A Tribal member who meets all of the requirements of this law, but refuses to provide the Trust Enrollment Department with his or her social security number or individual tax identification number is subject to mandatory federal income tax withholding from his or her per capita payment, as required by federal law.

(c) *IRS Publication 15a.* The Nation shall comply with the most recent edition of IRS Publication 15a.

123.5. Distributions

123.5-1. *General.* This section sets forth the required processes for distribution of per capita payments.

123.5-2. *Deadlines.* The following deadlines apply in regards to the annual per capita payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline is construed to be the close of business on the following business day. For any additional per capita payments, the Trust Enrollment Committee may establish dates and deadlines associated with those payments, as needed.

(a) *Eligibility.* Eligibility falls into the following categories:

(1) *Filing Deadlines.* An individual who is not a Tribal member shall file a new enrollment application no later than the close of business on January 31st in order to be considered eligible for the following per capita payment.

(A) *Enrollment Deadlines.* An individual is considered enrolled for the purposes of a per capita payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by March 31st.

(B) A newly enrolled Tribal member is eligible only for per capita payments authorized to be distributed following the effective date of his or her enrollment; he or she is not eligible to receive any per capita payments that were distributed prior to the effective date of his or her enrollment.

(2) *Dual Enrollment.* A Tribal member who is dually enrolled with another

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Indian tribe is not eligible for a per capita payment unless his or her relinquishment from the other tribe has been processed and written verification that the member is no longer enrolled with that tribe has been received by the Trust Enrollment Department by September 1st.

(b) *Distribution Documents.*

(1) *Adult Distribution Form and Instructions.* Unless and until the Trust Enrollment Department modifies the Adult Distribution Form and Instructions by creating rules, the Trust Enrollment Department shall comply with the following.

(A) Prior to July 1st of the year the Trust Enrollment Department shall mail membership distribution forms and instructions to all adult Tribal members. Adults shall complete, notarize and return a notarized membership distribution form to the Trust Enrollment Department by close of business on or before September 1st in order to be eligible for a per capita distribution.

(B) The Trust Enrollment Department shall make available late membership distribution forms and shall accept such forms in compliance with section 123.5-2(e).

(2) *Majority Age Beneficiary Distribution Form and Instructions.*

(A) Prior to April 1st of the year the Trust Enrollment Department shall mail trust account forms and instructions to eligible majority age beneficiaries for trust account distributions in accordance with Article III of the Per Capita Trust Agreement.

(B) The Trust Enrollment Department shall make available late trust account forms and shall accept such forms in accordance with Article III of the Per Capita Trust Agreement and IGRA.

(c) *Annual Distribution Date.* The Nation shall distribute all annual per capita payments on or before September 30th, excluding those to beneficiary trust accounts, which are governed by the Per Capita Trust Agreement.

(d) *Direct Deposit.* Adults and majority age beneficiaries may submit a direct deposit form at any time, provided that in order for it to be applied to an upcoming distribution, the Tribal member shall submit the direct deposit form by the applicable per capita or trust account distribution form deadline.

(1) Upon receipt of notice from the Oneida Accounting Department of any fees incurred by the Nation associated with reissuance of a distribution, the Trust Enrollment Department shall deduct any such fees from the reissued distribution. (Fees may include, but are not limited to, stop payment and direct deposit bank rejection fees).

(2) The Nation shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Nation's behalf may not count against the Tribal member as identified in 123.5-2(e)(2)(A).

(e) *Request for a Prior Per Capita Payment.*

(1) *Unclaimed Payment.* Tribal members shall submit a request for a prior adult per capita payment, for which the Tribal member was eligible, but was not

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387 claimed or fully attached, by September 1st of the next year. For example, if a
 388 payment's original distribution date is in 2000, then the deadline is September 1,
 389 2001. If a request is not received by the deadline date, the payment expires and
 390 the Trust Enrollment Department shall deposit such funds in a pooled account in
 391 accordance with 123.5-5.

392 (A) The Trust Enrollment Department shall process prior per capita
 393 payments requested by eligible adults according to the Trust Enrollment
 394 Committee's rules regarding distribution timelines.

395 (B) The Trust Enrollment Department shall process prior per capita
 396 payments requested by a majority age beneficiary in accordance with
 397 Article III of the Per Capita Trust Agreement.

398 (2) *Distribution of Outstanding Checks including rejected Direct Deposit funds.*
 399 Tribal members shall submit a request for an adult or majority age beneficiary's
 400 prior distribution, for which a Tribal member already claimed, but did not redeem,
 401 by September 1st of the next year. For example, if a distribution's original issue
 402 date is in 2000, then the deadline is September 1, 2001.

403 (A) An adult, minor beneficiary or majority age beneficiary's distribution
 404 may only be reissued once. After the distribution/rejected direct deposit
 405 funds are reissued, the Tribal member has ninety (90) days to redeem it or
 406 the distribution will expire and may not be reissued. The Trust Enrollment
 407 Department shall process expired funds in accordance with 123.5-5.

408 (B) Upon receipt of notice from the Oneida Accounting Department of any
 409 fees incurred by the Nation associated with reissuance of a distribution,
 410 the Trust Enrollment Department shall deduct any such fees from the
 411 reissued distribution. (Fees may include, but are not limited to, stop
 412 payment and direct deposit bank rejection fees).

413 (i) The Nation shall waive fees if a check is reissued due to an
 414 error on its behalf. A reissue made due to an error on the Nation's
 415 behalf may not count against the Tribal member as identified in
 416 123.5-2(e)(2)(A).

417 (f) *Refusal of Distributions.* An adult or majority age beneficiary may refuse any
 418 distribution due to him or her, including a trust account distribution, by completing a
 419 refusal form available with the Trust Enrollment Department. However, if the Judiciary
 420 has approved an attachment of an adult distribution, only the remaining portion of the
 421 distribution, if any, may be refused. Majority age beneficiary and legally incompetent
 422 adult distributions are not attachable.

423 (1) Upon submitting the refusal form to the Trust Enrollment Department, the
 424 adult or majority age beneficiary irrevocably waives his or her right to the specific
 425 distribution as indicated on the form.

426 (2) Tribal members seeking to refuse a distribution shall submit refusal forms in
 427 accordance with sections 123.5-2(b)(1)(A) and 123.5-2(b)(2)(A).

428 (3) The Trust Enrollment Department shall process refused distributions in
 429 accordance with 123.5-5.

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(a) *Deceased Tribal Member Distribution Forms.* Tribal members are eligible to receive a distribution so long as the Tribal member has complied with the distribution documents and/or distribution rule(s) requirements. This includes distributions identified to be deposited to a trust account. The estate of a deceased Tribal member may not submit a membership distribution form on behalf of the deceased to claim a distribution. The Tribal member is only eligible for the distribution if the Tribal member either personally or through an appointed representative submits the distribution form while the Tribal member is still living. Should a Tribal member become deceased after submitting the required distribution form, but before the distribution date, the Trust Enrollment Department shall continue to issue the distribution in the name of the deceased Tribal member. The Trust Enrollment Department shall not reissue any distributions in the name of any claimant or the decedent's estate.

(b) *Deceased Minor/Majority Age Beneficiary or Legally Incompetent Adult.*

(1) *When there is a Beneficiary Designation Form on Record.* A minor/majority age beneficiary's or a legally incompetent adult's trust account balance upon death is inheritable upon the date of the beneficiary's death in accordance with the most recent beneficiary designation form on record as applicable. Within thirty (30) calendar days of learning of a minor/majority age beneficiary's or legally incompetent adult's death, the Trust Enrollment Department shall provide notice of any remaining trust account balance to the designated beneficiary using the last address on file. Should a designated beneficiary claim the remaining trust account balance, the Trust Enrollment Department shall issue the distribution in the name of the first available designated beneficiary(s). If a designated beneficiary does not request distribution of the remaining balance of a trust account within one (1) year after the Trust Enrollment Department's date of notice, the Trust Enrollment Department shall liquidate and deposit the trust fund account as follows:

(A) For the remaining balance in minor/majority age beneficiary's trust account, to the Oneida Youth Leadership Institute.

(B) For the remaining balance in a legally incompetent adult's trust account, to the General Fund.

(2) *When there is No Beneficiary Designation Form on Record.* The Trust Enrollment Committee shall establish rules defining potentially interested parties in the event there is no signed beneficiary designation form on record. The Trust Enrollment Committee shall also include in such rules notice provisions that put those potentially interested parties on notice that the Nation has a probate process and the potential consequences of a failure to comply with the probate process. Where a distribution is issued in accordance with the issuance of a domiciliary letter naming a personal representative of the estate, the Trust Enrollment Department shall issue the distribution in the name of the estate of the minor/majority age beneficiary or the legally incompetent adult.

123.5-4. *Relinquishment of Tribal Membership.* Tribal members are ineligible for any current,

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future and/or prior per capita payment distributions as of the date his or her Tribal membership is relinquished.

(a) *Relinquished Adult.* The Trust Enrollment Department shall process funds set aside for a relinquished adult's distribution in accordance with 123.5-5.

(b) *Majority Age/Minor Beneficiary Relinquishment.* Upon a majority age/minor beneficiary's relinquishment the following provisions apply:

(1) The Trust Enrollment Department shall deposit any funds in a trust account for a majority age/minor beneficiary in a joint savings account in the name of the Trust Enrollment Committee and the relinquished majority age/minor beneficiary.

(2) A relinquished majority age/minor beneficiary is eligible to claim the joint savings account if he or she is eighteen (18) years of age by September 1st of the distribution year and submits the majority age distribution form by July 1st of the same year. In addition, a relinquished majority/minor age beneficiary shall claim any remaining funds held in the joint savings account prior to the first distribution following his or her twenty-first (21st) birthday.

(3) A relinquished majority age/minor beneficiary may refuse his or her joint savings account funds at the age of eighteen (18). The proof of education requirement is not required to refuse joint savings account funds, however the relinquished majority age/minor beneficiary shall satisfy the requirements of section 123.5-2(f).

(4) The Trust Enrollment Department shall follow the Trust Enrollment Committee's standard operating procedure for allocating any fees necessary for the establishment and maintenance of a relinquished majority age/minor beneficiary's joint savings account to the said account.

(5) The Trust Enrollment Department shall deposit any unclaimed joint savings account funds in a Pooled Account in accordance with section 123.5-5.

(c) *Legally Incompetent Adult Relinquishment.* Upon a legally incompetent adult's relinquishment the Trust Enrollment Department shall disburse any funds in a trust account for the legally incompetent adult to the guardian of the legally incompetent adult.

(1) If the trust account funds for a legally incompetent adult are not claimed within one (1) year after the date of relinquishment, the Trust Enrollment Department shall liquidate and deposit the trust fund account in accordance with 123.5-5.

123.5-5. *Pooled Account.* Pooled account funds are identified by the Trust Enrollment Department, to be used for a purpose designated by General Tribal Council. Pooled account funds result from the following.

(a) *Expiration of Unclaimed Per Capita Payments.* Tribal Members' rights to unclaimed Per Capita Payments expire upon the occurrence of any one (1) of the following:

(1) A Tribal member submits a refusal form under 123.5-2(f);

(2) A Tribal member fails to request a prior distribution or trust account funds within the time provided under this law and/or the Per Capita Trust Agreement;

(3) An adult receives a distribution in accordance with 123.5-3(a) and the distribution is not redeemed within one (1) year of the date of distribution;

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(4) The estate of a deceased majority age/minor beneficiary fails to request distribution of the trust account within the time provided under 123.5-3(b); or

(5) The guardian of a deceased legally incompetent adult fails to request distribution of the trust account within the time provided under 123.5-3(c).

123.6. Minor/Majority Age Beneficiaries and Legally Incompetent Adults

123.6-1. *Minor Beneficiaries.* This section sets forth a consistent method to protect and preserve the interests of minor beneficiaries in any distribution to which a minor beneficiary may be eligible. All distributions to minor beneficiaries are governed by this law, IGRA, the Tribal Revenue Allocation Plan and the Per Capita Trust Agreement.

(a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish standard operating procedures for setting up, monitoring and distributing the trust accounts. The Trust Enrollment Committee may choose to maintain pooled or individual accounts, separate accounts for each distribution or series of distributions, or any other combination which is in the best interests of the beneficiaries and which is consistent with the terms of the Per Capita Trust Agreement and the Trust Enrollment Committee's investment policy.

(1) The Trust Enrollment Committee is responsible for the protection and preservation of per capita payment funds for beneficiaries. As part of that responsibility, the Trust Enrollment Committee shall complete and issue any necessary reports to the beneficiaries. The Trust Enrollment Committee shall develop rules, which establish valuation dates and frequency of reports and identify data critical to the completion of the reports. The Trust Enrollment Committee may delegate such reporting responsibilities to duly selected vendors.

(b) *Costs of Account.* The Trust Enrollment Department shall apply administrative costs related to a trust account to the said account. Administrative costs are those costs related to third party fees and expenses resulting from managing the accounts. Administrative costs do not include any costs related to the expenses of the Trust Enrollment Committee or Trust Enrollment Department.

(c) *No Guarantee.* It is the Trust Enrollment Committee's responsibility to invest beneficiaries' distributions in accordance with the Per Capita Trust Agreement. Because the market affects the value of trust accounts, beneficiaries are not guaranteed any specific amount of distribution made prior to becoming a majority age beneficiary.

(d) *Disbursement to Majority Age Beneficiaries.* Disbursement of trust account funds to majority age beneficiaries is governed by the Per Capita Trust Agreement, provided that to be eligible for a distribution, the majority age beneficiary is required to:

(1) Meet the age and education requirements where:

(A) If the majority age beneficiary has proof of education by September 1st of the distribution year as required by the Per Capita Trust Agreement, he or she is eligible for distribution at eighteen (18) years of age.

(B) If the majority age beneficiary does not have proof of education by September 1st of the Distribution year as required by the Per Capita Trust Agreement, he or she remains eligible to claim their trust account funds

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upon reaching twenty-one (21) years of age.

(C) *Exceptions.* The following Tribal members are exempt from the requirement to provide proof of education in order to be eligible for a minor trust account distribution prior to reaching twenty-one (21) years of age:

(i) Majority age beneficiaries declared to be a legally incompetent adult under 123.6-2. In such circumstances, the Trust Enrollment Department shall liquidate and deposit any funds from the minor's trust account into a legally incompetent adult trust account.

(ii) Majority age beneficiaries who have documentation of learning or other disability from a professional qualified to make such a diagnosis and who are able to present a certificate of attendance showing he or she has attended twelve (12) years of school. In such circumstances, that certificate of attendance is deemed the equivalent to proof of education.

(D) *Fraudulent Proof of a Diploma.* In the event the Trust Enrollment Department deems that a majority age beneficiary has submitted fraudulent proof of education, the Trust Enrollment Department shall:

(i) If distribution has not been made to the Tribal member, withhold distribution of the trust account funds until the requirements of this law have been met;

(ii) Impose a fine against the Tribal member of one-third (1/3) of the Tribal member's entire trust account funds;

(iii) Notify the Tribal member of the following:

(a) His or her proof of education has been deemed fraudulent;

(b) If not already distributed to the Tribal member, the trust account funds may not be distributed until he or she submits valid proof of education or reaches twenty-one (21) years of age;

(c) A fine of one-third (1/3) of the Tribal member's entire trust account funds has been imposed; and

(d) How to appeal the Trust Enrollment Department's determination of the fraudulent proof of education, including any applicable time limits.

(iv) If necessary to satisfy the fine, take action to have the Tribal member's future per capita payments attached in accordance with this law.

(v) Deposit any funds collected to pay a fine imposed pursuant to this section in a pooled account in accordance with 123.5-5.

(2) Complete and submit a majority age beneficiary distribution form and/or deferral payment agreement by July 1st of the distribution year. A majority age beneficiary may postpone distribution of all or some of his or her trust account

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funds by entering into a deferral payment agreement pursuant to the Per Capita Trust Agreement.

123.6-2. *Legally Incompetent Adults.* This section sets forth a consistent method to protect and preserve the interests of legally incompetent adults in any distribution for which they may be eligible. If a distribution includes legally incompetent adults as eligible recipients, the Trust Enrollment Department shall deposit such distributions into a trust account in accordance with the Tribal Revenue Allocation Plan and IGRA.

(a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish standard operating procedures for setting up, monitoring, and distributing trust accounts. When an adult is declared legally incompetent, the Trust Enrollment Department shall place any distribution that is claimed on his or her behalf in a trust account for health, welfare and/or education expenses. The Trust Enrollment Committee shall develop rules for determining when a guardian qualifies for distribution from an established trust account.

(b) *Reversal of Incompetency.* If a court of competent jurisdiction determines that an adult is no longer legally incompetent, the adult shall provide the Trust Enrollment Department with a certified copy of the order. Provided that the adult is eligible for the distribution and has followed the processes required under this law, upon receipt of an order reversing incompetency, the Trust Enrollment Department shall distribute any funds held in the trust account for the legally incompetent adult to the adult now deemed competent.

123.6-3. *Beneficiary Designation Forms.* The Trust Enrollment Department shall provide all minor/majority age beneficiaries and legally incompetent adults with beneficiary designation forms which name a beneficiary to inherit any remaining trust account balance in the event of the minor/majority age beneficiary's or legally incompetent adult's death. Once every year, the Trust Enrollment Department shall mail such forms out to newly enrolled Tribal members, all persons that became a majority age beneficiary in that year and Tribal members declared a legally incompetent adult in that year or had a new guardian appointed in that year. The beneficiary designation form is required to include the following:

- (a) An explanation of the effect of and benefits to designating a beneficiary(s);
- (b) An explanation of the potential consequences to not naming a beneficiary(s); and
- (c) A signature field for the applicable of the parent/guardian or majority age beneficiary with an explanation of when each party is expected to sign.

123.7. Per Capita Actions

123.7-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or rules.

123.7-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or rules.

123.7-3. In regards to taking actions authorized under this law, complaints filed with the Oneida Judiciary shall name the Trust Enrollment Department.

End.

Adopted - BC-7-12-00-B

Emergency Amendments – BC-01-03-01-B

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Emergency Amendments - BC-2-28-01-E
Amendments - BC-11-06-02-A (Elder Per Capita)
Emergency Amendments - BC-6-25-03-G (Child support priority for attachment)
Amendments - BC-6-16-04-C (Child support priority for attachment)
Emergency Amendments - BC-9-12-07-A (one-time per capita payment)
Amendments – BC-04-22-09-A (High School Diploma; legally incompetent adults)
Emergency Amendments – BC-06-08-11-D (Fraudulent diploma; dual enrollments)
Emergency Amendments extended – BC-11-09-11-E (Fraudulent diploma; dual enrollments)
Amendments Adopted – BC-05-09-12-B (Fraudulent diploma, dual enrollments)
Emergency Amendments – BC-09-12-12-A (Change in distribution date) Expired 3-12-13
Amendments Adopted – BC-08-14-13-D



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson
DATE: February 22, 2017
RE: Per Capita Law Amendments

Please find the following attached backup documentation for your consideration of the Per Capita Law Amendments:

1. Resolution: Per Capita Law Amendments
2. Statement of Effect: Per Capita Law Amendments
3. Per Capita Law Amendments Legislative Analysis
4. Per Capita Law (Clean)
5. Per Capita Law Amendments Fiscal Impact Statement
6. Notice to Oneida Entities of New Attachment Process

Overview

This is a proposal to amend the existing Per Capita Law which would:

- Reduce the frequency of per capita distributions to elders while maintaining the elders' payments by placing elders on the same distribution schedules as adults.
- Allow for per capita distributions to be paid to a Tribal member who has filled out the required distribution forms but died prior to the distribution date.
- Create a majority age beneficiary category distinct from minor beneficiary.
- Include provisions that allow all persons with per capita trust accounts to name beneficiaries.
- Clarify how per capita distributions held in trust accounts are inherited when the beneficiary passes.
- Establish bank fees for closed accounts and returned distributions.
- Transfer the hearing authority of the Trust Enrollment Committee to the Judiciary.
- Revise the attachment process to allow entities to collect debt owed to the Nation without requiring a court order.

In accordance with the Legislative Procedures Act, public meetings on the proposed amendments to the Per Capita Law were held on May 19, 2016, June 16, 2016 and December 15, 2016.

In addition, the LOC is committing to send the attached notice to all Oneida entities notifying them of the new attachment process contained in this law.

Requested Action

Approve the Resolution: Adoption of Per Capita Law Amendments

BC Resolution _____
Adoption of Per Capita Law Amendments

WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Nation Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Business Committee adopted the Per Capita law pursuant to resolution BC-07-12-00-B and amended the law by resolutions: BC-11-06-02-A, BC-06-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13; and

WHEREAS, these amendments place all elders on the same distribution schedule as adults so that first time elders with birthdays after the distribution date will receive their payment early at the same time as everyone else; and

WHEREAS, these amendments modify the policy related to a Tribal member that dies prior to a distribution date to permit payment so long as the Tribal member timely filled out the distribution form, provided that such payments may not be re-issued to the estate or any other claimant; and

WHEREAS, these amendments add new provisions which allow for a beneficiary designation for any Tribal member with a per capita trust account; and

WHEREAS, these amendments clarify the distribution process and requirements for deceased Tribal members' trust accounts; and

WHEREAS, these amendments establish bank fees for closed accounts and returned distributions to be deducted from the per capita payment; and

WHEREAS, these amendments transfer the Trust Enrollment Committee's original hearing body authority to the Oneida Judiciary; and

WHEREAS, the these amendments revise the attachment process to allow the Nation's entities to collect debt owed to the Nation without requiring a court order; and

WHEREAS, public meetings regarding these amendments were held on May 19, 2016, June 16, 2016 and December 15, 2016, in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the Trust Enrollment Department and the Trust Enrollment Committee shall develop the rules required to support these Per Capita law amendments to be effective no later than June 25, 2017.

NOW THEREFORE BE IT FURTHER RESOLVED, that these Per Capita law amendments are hereby adopted.



Statement of Effect

Adoption of Per Capita Law Amendments

Summary

This Resolution adopts amendments to the Per Capita law which would:

- Reduce the frequency of per capita distributions to elders while maintaining the elders' payments by placing elders on the same distribution schedules as adults.
- Allow for per capita distributions to be paid to a Tribal member who has filled out the required distribution forms but died prior to the distribution date.
- Create a majority age beneficiary category distinct from minor beneficiary.
- Include provisions that allow all persons with per capita trust accounts to name beneficiaries.
- Clarify how per capita distributions held in trust accounts are inherited when the beneficiary passes.
- Establish bank fees for closed accounts and returned distributions.
- Transfer the hearing authority of the Trust Enrollment Committee to the Judiciary.
- Revise the attachment process to allow entities to collect debt owed to the Nation without requiring a court order.

By: Krystal L. John, Staff Attorney

Analysis

This resolution adopts amendments to the Per Capita law which was adopted by resolution BC-07-12-00-B and thereafter amended by resolutions BC-11-06-02-A, BC-06-16-04-C, BC-14 04-22-09-A, BC-05-09-12-B and BC-08-14-13.

In addition to the summary of the most notable revisions to the Per Capita law provided above, the amendments to the Per Capita law also delegate administrative rulemaking authority to the Trust Enrollment Department (Department) and the Trust Enrollment Committee (Committee) to further define the processes needed to implement this law.

The Department is permitted, but not required, to create rules which would modify the adult distribution form and instructions.

The Committee is required to create rules:

- related to distribution timelines for requests for prior payments;
- to provide the definition of and notice to potentially interested parties in the event a

Tribal member with a trust account dies without a beneficiary designation form on file;

- to establish valuation dates and frequency of reports and identify data critical to the completion of the reports, provided that the Trust Enrollment Committee may delegate such reporting responsibilities to duly selected vendors; and
- to determine when a guardian qualifies for distribution from an established trust account.

Public meetings were held on May 19, 2016, June 16, 2016 and December 15, 2016 in accordance with the Legislative Procedures Act.

In accordance with the Legislative Procedures Act, the effective date of these amendments is March 8, 2017, which is ten (10) business days from the date the resolution is adopted. The effective date is not required to be extended in order to allow the Committee time to develop the rules because the rules will be ready for the 2017 per capita distribution cycle as the resolution requires the rules to be effective by no later than June 25, 2017.

Conclusion

Adoption of these amendments does not conflict with the Nation's laws.



Analysis to Draft # 17 for OBC Consideration 2017 01 25

Per Capita Amendments

<i>Analysis by the Legislative Reference Office</i>					
Title	Per Capita (law) Amendments				
Sponsor	David P. Jordan	Drafter	Krystal L. John	Analyst	Maureen Perkins
Requester & Reason for Request	Trust Department. To 1) clarify minor and majority age beneficiary references as they relate to deferrals and hardships; 2) make changes in Elder distributions; 3) incorporate fees for stop payments and closed bank accounts and 4) review how resolutions BC-01-28-04-A and BC-11-06-02 are affected by the proposed changes and original intent, as they apply to the law.				
Purpose	The purpose of this law is to specify the procedures to be followed in the event that per capita payments are distributed by the Nation and to clearly state the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments [See 123.1-1].				
Authorized/ Affected Entities	Oneida Business Committee, Trust Enrollment Committee, Trust Enrollment Department, Judiciary, Oneida Accounting Department, Oneida Nation Child Support Agency, other Oneida Entities that may be owed a debt/fine by a Tribal member.				
Related Legislation	Per Capita Trust Agreement, Tribal Revenue Allocation Plan, Child Support Law and Accompanying Rules, Memorandum of Agreement, Judiciary				
Enforcement & Due Process	Any Tribal member or guardian of a Tribal member can file a complaint regarding actions taken according to this law and/or rules [See 123.7] or an attachment [See 123.4-9(d)(5)] to the Judiciary. Attachments may be ordered by the Judiciary for child support arrears or a federal tax levy [See 123.4-9(a)(1) and 123.4-9(a)(3)]. Oneida entities are not required to receive an attachment order from the Judiciary prior to initiating a per capita payment attachment unless an attachment hearing is requested [see 123.4-9(d) and 123.4-9(d)(5)]. Debt owed to an Oneida Entity includes any money owed and any fines that have been issued by the Oneida Entity [See 123.4-9(a)(2)(A)]. The Judiciary may order attachments against per capita payments of Tribal members who have not returned a notarized membership payment form or who refuse a per capita payment [See 123.4-9(f)]. All fees associated with reissuing a distribution must be applied to the distribution [see 123.5-2(e)(2)(B)] unless it is an error on the Nation's behalf [See 123.5-2(e)(2)(B)(i)].				
Public Meeting Status	Public meetings were held May 19, June 16, and December 1, 2016. The LOC has reviewed the public comments received during the public comment period; any changes made based on the public comments received have been incorporated into this draft.				

Overview

The proposed Per Capita law amendments were requested by the Trust Enrollment Department (formerly known individually as the Trust Department and the Enrollment Department) to reduce the frequency of per capita distributions to elders while still maintaining the elders payments by placing elders on the same distribution schedule as adults, allow for per capita distributions to be paid to a Tribal member who has filled out the required distribution

forms but died prior to the distribution date, create the majority age beneficiary category distinct from minor beneficiary, include provisions that allow all persons with per capita trust accounts to name beneficiaries, clarify how per capita distributions held in trust accounts are inherited when the beneficiary passes, establish bank fees for closed accounts and returned distributions, and transfers the hearing authority of the Trust Enrollment Committee to the Judiciary. Additional amendments include: repeals BC resolution 11-06-02-A, merges Trust and Enrollment Departments into one Trust Enrollment Department, recognizes the Trust Enrollment Committee (the current law recognizes the Trust Committee), eliminates deadlines related to attachments, eliminates the requirement for Oneida entities to receive an attachment order from the Judiciary unless an attachment hearing is requested and eliminates the role of the Trust Enrollment Committee to hold administrative hearings.

Analysis was requested regarding the following resolutions:

▪ **BC Resolution 11-06-02-A**

- This resolution amended the Per Capita Ordinance to create a separate per capita payment schedule for elders who turn 62 and 65 in a distribution year. The amendments added age 65 to the definition of elder in the Per Capita Ordinance. The resolution also established that elders who turn 62 or 65 by December 31st were to receive the respective elders' per capita payment for that September 30th distribution year. Those who turn 62 or 65 after September 30th were to receive their respective first time elder per capita payment in the month following their birth date. This establishes that there are additional elders payments sent after September 30th of a distribution year for those who are turning 62 and 65 after September 30 of that distribution year.
 - The proposed amendments still honor December 31st as the cut off for elders who reach the age determined by the GTC resolution in the distribution year that takes place on September 30th. These distributions; however, will occur on September 30th along with all adult distributions. Elders who reach age categories established by the GTC resolution between October 1st and December 31st will receive their elders' payments early on September 30th of that distribution year.
 - BC Resolution 11-06-02-A conflicts with the proposed amendments in that there is not a separate schedule for elders' payments in the proposed law as established by this resolution. Elders are classified as adults in the definition and therefore follow the adult distribution timeline.
 - Adult is defined as a Tribal member who is at least eighteen (18) years of age on or before September 1st of a given year [See 123.3-1(a)].

	BC Resolution 11-06-02-A	Current Law	Proposed Amendments
definition	Elder: shall mean those tribal members who are age 62 years or	9.3-1(e) "Elder" shall mean those Tribal members who are age 62 years or over, or 65 years or over, as of	123.3-1 "Adult" means a Tribal member who is at least eighteen (18) years of age on or before September 1 st of a given year.

	over, or 65 years or over, as of December 31 of a given year.	December 31st of a given year.	123.4-6(a) For the purposes of this section, elder means a Tribal Member who meets the age requirements as of December 31st of a given year to be eligible for an elder distribution as determined by the effective General Tribal Council Resolution.
	BC Resolution 11-06-02-A	Current Law	Proposed Amendments
Payments / Distributions	<p>(c) Payments Sent. Per capita payments shall be mailed on September 30th.</p> <p>1) After September 30, and through December 31, first time elder per capita payments shall be sent in the month following birth date.</p>	<p>9.5-3(d) (d) Annual Payments. Annual per capita payments shall be distributed on or before September 30th. First time elder per capita payments for those Tribal members who turn sixty-two (62) or sixty-five (65) after September 30th, and through December 31st, shall be distributed at the end of the month of the elder's birth date.</p> <p>(e) (1) Prior Payments: Elders. Prior payments requested by eligible elders on or before the twentieth (20th) day of the month shall be distributed by the last business day of that month. Prior payments requested by elders after the twentieth (20th) day of the month shall be distributed by the last business day of the next month.</p>	123.5-2 (c) Annual Distribution Date. The Nation shall distribute all annual per capita payments on or before September 30 th , excluding those to beneficiary trust accounts, which are governed by the Per Capita Trust Agreement.

- **Impact.** BC Resolution 11-06-02-A conflicts with the proposed amendments.
 - This law repeals BC Resolution 11-06-02-A considering that elders will still receive their elders' payments in the distribution year according to the proposed Per Capita Law amendments.
 - **Special BC Resolution 1-28-04-A**

- This resolution was passed at the Special BC meeting held in lieu of the GTC Annual Meeting due to a lack of quorum. This resolution designates the interest from the unclaimed unallocated per capita pooled account to be applied to the Oneida Language Revitalization Program.
- Please note that the pooled account itself has not been designated for use by the GTC through this resolution; only the interest from the account was allocated, the principal of the account shall not be depleted.
- **Impact.** This resolution has no legislative impact on the proposed amendments.

Proposed Amendments

This section will highlight each of the major proposed amendments to the law and will indicate whether there is overlap or conflict with the Per Capita Trust Agreement.

- **Repeals BC Resolution 11-06-02-A**
 - **Impact.** The separate process for elders' per capita distributions has been eliminated; all adult distributions will follow the same distribution schedule.
- **Trust Enrollment Committee.** Added responsibilities include: provide input to the Finance Department regarding per capita matters included in the Nation's revenue allocation plan *[see 123.4-5(c)]*.
 - **Impact.** No legislative impact or conflict.
- **Trust Enrollment Department.** Added responsibilities include:
 - Ensure the availability and liquidity of funds for transfer of the trust funds under the authorization of the Trust Enrollment Committee *[see 123.4-6(f)]*.
 - Calculate attachment amounts for collection of Oneida entity debts and implement Oneida entity attachments *[see 123.4-6(l)]*.
 - **Impact.** No legislative impact or conflict.
- **Tribal Treasurer** *[see 123.4-8]*. Duties removed:
 - Make a payment to those Tribal members responding to the membership payment form deadline who are not minors or incompetent adults *[see 9.7-5(a) of current law]*.
 - Cover unverified member payments for those members who are unresponsive to the membership payment form deadline *[see 9.7-5(b) of current law]*.
 - **Impact.** No legislative impact or conflict.
- **Deadlines.** Deadlines regarding attachments were removed throughout the law to eliminate the need to amend the law due to updated deadlines in the future *[see 9.4-6(d)(4) and 9.4-6(d)(4)(B) and 9.4-6(d)(4)(C) and 9.4-6(d)(5) and 9.4-6(d)(6)(A) and 9.4-6(d)(6)(B) and 9.4-6(e)(1) and 9.4-6(e)(2) and 9.4-6(e)(3)(A) and 9.4-6(e)(3)(B) of current law]*.
 - **Impact.** No legislative impact or conflict.
- **Distinction of Majority Age and Minor Beneficiaries.** Two terms have been added to create clarity in the law: majority age beneficiaries and minor beneficiaries.
 - **Proposed Amendments to the Law.** The proposed amendments to the law define the new terms as follows:
 - Majority age beneficiaries: a Tribal member who has reached eighteen (18) years of age by September 1 and is eligible to claim a trust account for the first time in the distribution year *[see 123.3-1(k)]*.
 - Minor beneficiaries are defined as Tribal members who are less than

- 18 years of age *[see 123.3-1(l)]*.
- **Per Capita Trust Agreement.** The Per Capita Trust Agreement refers only to “beneficiaries” defined as:
 - The beneficiaries of the trust shall be all duly enrolled members of the Oneida Tribe of Indians of Wisconsin who are eligible to receive a per capita distribution in any year in which any such distribution is made, and who have not yet attained the age of eighteen years by September 1st of the year in which such distribution is made *[see Article I. Beneficiaries of the Per Capita Trust Agreement]*.
 - **Impact.** No legislative impact or conflict.
 - **Oneida Entity Debt Attachment.** Oneida entities are not required to receive an attachment order from the Judiciary prior to initiating a per capita payment attachment unless an attachment hearing is requested *[see 123.4-9(d)]*. The entity owed the debt must provide two written notices via first class mail to the debtor’s last known address prior to issuing final notice of indebtedness with intent to attach. The notice to attach must also appear in the Nation’s newspaper. Once this has been satisfied, the Trust Enrollment Department will calculate the attachment amount. The Trust Enrollment Department may attach per capita payments, as ordered by the Judiciary, of Tribal members who do not return a notarized membership payment form or who refuse a distribution *[see 123.4-9(f)]*. Any remaining amount after all attachments have been satisfied will be distributed to the Tribal member if the Tribal member follows the process for requesting a prior per capita payment *[see 123.5-2(e)]* or otherwise deposited into the pooled account *[see 123.4-9(f)]*.
 - **Administrative Hearings.** The role of the Trust Enrollment Committee to hold administrative hearings regarding challenges to payment or non-payment of per capita payments has been removed from this law *[see 9.4-4(c) of current law]*. Disputes are settled by the Judiciary in the proposed amendments.
 - **Proposed Amendments to the Law.** The proposed amendments to the law state, “The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or rules.” *[see 123.7-1]*.
 - **Per Capita Trust Agreement.** The Per Capita Trust Agreement states, “If any dispute arises out of the distribution of a beneficiary’s interest under the trust, all such matters shall be resolved according to the procedures set forth in the Oneida Administrative Procedures Act, except as otherwise provided in the Oneida Tribe of Indians of Wisconsin Revenue Allocation Plan *[see Article XV of the Per Capita Trust Agreement]*.”
 - **Impact.** Article XV of the Per Capita Trust Agreement would need to be updated to refer disputes to the Judiciary.
 - **Bank Fees.** The current law is silent with respect to bank fees.
 - **Proposed Amendments to the Law.** All fees associated with reissuing a distribution (due to stop payment or incorrect direct deposit information) must be applied to the distribution *[see 123.5-2(d)(1)]* unless it is an error on the Nation’s behalf *[see 123.5-2(d)(2)]*.
 - **Impact.** No legislative impact or conflict.
 - **Elders Payments.** The separate process for elder’s distributions was removed from this law. Elder’s distributions now follow the same process and adhere to the same deadlines

as the adult distributions *[see 123.5]*, except for those elders who reach the age category established by the GTC resolution between October 1 and December 31 of the distribution year, who will receive their elders' payments early on September 30 (implied intent). This change conflicts with BC Resolution 11-06-02-A which sets the distribution timeline for elders reaching 62 and 65 by December 31st of the distribution year.

- **Impact.** BC Resolution 11-06-02-A is repealed in this law as noted in the analysis of the resolution above.
- **Deceased Tribal Members.** Tribal Members who complete the distribution form and die prior to the distribution date will receive a per capita payment. The payment will only be made in the Tribal Member's name and will not be reissued in the name of any claimant or the decedent's estate *[see 123.5-3(a)]*.
 - **Impact.** No legislative impact or conflict.
- **Beneficiary Designation Forms.** All minor/majority age beneficiaries and legally incompetent adults will receive beneficiary designation forms from the Trust Enrollment Department to name a beneficiary to inherit any remaining trust account balance in the event of death of the minor/majority age beneficiary or legally incompetent adult. The Trust Enrollment Department will send these forms out each year for newly enrolled members and Tribal members declared legally incompetent *[see 123.6-3]*.
 - **Impact.** No legislative impact or conflict.
- **Per Capita Actions.** A process to file a complaint to the Judiciary was added to this law *[See 123.7]*.
 - **Impact.** The complaint process would need to be updated in the Per Capita Trust Agreement as it currently refers to the Administrative Procedures Act and the Revenue Allocation Plan to settle disputes *[See Article XV of the Per Capita Trust Agreement]*.
- **Complaint with Regard to Oneida Entity Debt and Federal Tax Levy Attachments**
 - Tribal members subject to attachment to collect a debt owed to the Judiciary who wish to file a complaint regarding the attachment may file a request for a show cause hearing with the Judiciary within 30 days of the final notice of indebtedness with intent to attach. The Judiciary shall honor all requests for show cause hearings *[see 123.4-9(d)(5)]*.
 - **Impact.** Provides an opportunity for Tribal members to file a complaint regarding an attachment to collect debt issued by the Judiciary.

Administrative Rulemaking Authority

- The Trust Enrollment Department has rulemaking authority under this law to develop and implement the following rules:
 - Modify the Adult Distribution Form and Instructions *[see 123.5-2(b)(1)]*.
- The Trust Enrollment Committee has rulemaking authority under this law to develop and implement the following rules:
 - Distribution timelines *[see 123.5-2(b)(1)(A)]*.
 - Defining potentially interested parties in the event there is no signed beneficiary designation form on record *[see 123.5-3(a)]*.

- Establish valuation dates and frequency of reports and identify data critical to the completion of the reports. The Trust Enrollment Committee may delegate such reporting responsibilities to duly selected vendors *[see 123.6-1(a)(1)]*.
- Determine when a guardian qualifies for distribution from an established trust account *[see 123.6-2(a)]*.

Other

Oneida Tribe of Indians of Wisconsin has been changed to Oneida Nation to reflect approved constitutional amendments. Please refer to the fiscal impact statement for any financial impacts.

Title 1. Government and Finances – Chapter 123
PER CAPITA
Shakotiw\$ Stawih# Olihwa@ke
Issues concerning where they give the money

123.1. Purpose and Policy
123.2. Adoption, Amendment, Repeal
123.3. Definitions
123.4. General

123.5. Distributions
123.6. Minor/Majority Age Beneficiaries and Legally Incompetent Adults
123.7. Per Capita Actions

123.1. Purpose and Policy

123.1-1. *Purpose.* The purpose of this law is:

- (a) To specify the procedure to be followed in the event that per capita payments are distributed by the Nation; and
- (b) To clearly state the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments.

123.1-2. *Policy.* It is the policy of the Nation to have a consistent methodology for distribution of per capita payments, including payments derived from gaming revenues and regulated by IGRA.

123.2. Adoption, Amendment, Repeal

123.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D and _____.

123.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

123.2-3. 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.

123.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that this law repeals Oneida Business Committee resolution 11-06-02-A.

123.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

123.3. Definitions

123.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Adult” means a Tribal member who is at least eighteen (18) years of age on or before September 1st of a given year.
- (b) “Arrears” means the amount of money a Tribal member has not paid pursuant to the most recent child support court order against him or her.
- (c) “Court of competent jurisdiction” means the Judiciary, a state or federal court or another court recognized by the Judiciary as having the jurisdiction to hear and determine a particular legal proceeding.
- (d) “Day” means calendar days, unless otherwise specifically stated.
- (e) “Debtor” means a Tribal member owing a debt to an Oneida entity.
- (f) “Direct Deposit” means the electronic distribution of funds.
- (g) “Distribution” means the transfer of funds to Tribal members.
- (h) “IGRA” means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.

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- (i) “Judiciary” means the Nation’s judicial system, which includes the Family Court, Trial Court and/or Appellate Court.
- (j) “Legally Incompetent Adult” means a Tribal member who is at least eighteen (18) years of age and has been declared incompetent by a court of competent jurisdiction pursuant to applicable law.
- (k) “Majority Age Beneficiary” means a Tribal member who has reached eighteen (18) years of age by September 1st and is eligible to claim a trust account for the first time in the distribution year.
- (l) “Minor Beneficiary” means a Tribal member who is less than eighteen (18) years age.
- (m) “Nation” means the Oneida Nation.
- (n) “Oneida Entity” means a department, board, committee, commission or chartered corporation of the Nation or the Judiciary.
- (o) “Outstanding Check” means a check that has been written by the Nation, but has not yet cleared the bank on which it was drawn.
- (p) “Per Capita Payment” means the amount authorized by the General Tribal Council to be distributed to Tribal members.
- (q) “Pooled Account” means the account set up by the General Tribal Council or Oneida Business Committee, through resolution, for the purpose of managing undistributed funds pursuant to the Nation’s laws.
- (r) “Proof of Education” means the documents identified in Article III of the Per Capita Trust Agreement as acceptable to demonstrate that the tribal member has received a high school diploma or its equivalent.
- (s) “Rule” means a set of requirements enacted by the Trust Enrollment Committee and/or the Trust Enrollment Department in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.
- (t) “Tribal Member” means an individual who is an enrolled member of the Nation.
- (u) “Trust Account” means an account(s) established by the Trust Enrollment Committee for the purpose of maintaining per capita funds for persons pursuant to the Nation’s revenue allocation plan, which includes, but is not limited to, minor beneficiaries and legally incompetent adults.
- (v) “Trust Enrollment Committee” means that body designated by the General Tribal Council to manage the trust funds for the Nation on behalf of Tribal members, and which is also responsible for the Nation’s enrollment records.
- (w) “Trust Fund Accountant” means the third party professionals hired by the Trust Enrollment Committee to oversee trust accounts established pursuant to this law.

123.4. General

123.4-1. This section sets forth the responsibilities delegated under this law.

123.4-2. *Supersedes.* This law supersedes any contradictory language contained in any other per capita payment plan.

123.4-3. *Budgetary Limitations.* This law may not be construed as mandating a per capita payment; per capita payments may only be issued at the direction of the General Tribal Council through adoption of a resolution.

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123.4-4. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) Identify and allocate funds available for per capita payments;
- (b) Forward approved revenue allocation plans to the Bureau of Indian Affairs;
- (c) Transfer funds to the appropriate Oneida entity(ies) pursuant to the Nation's laws within a reasonable time frame;
- (d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this in this sub-section; and
- (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Trust Enrollment Committee.

123.4-5. *Trust Enrollment Committee.* The Trust Enrollment Committee shall:

- (a) Manage trust accounts related to per capita payments with fiduciary responsibility;
- (b) Maintain the Nation's membership rolls so that the Trust Enrollment Department can accurately identify which Tribal members are eligible for distribution;
- (c) Provide input to the Finance Department regarding per capita matters included in the Nation's revenue allocation plan;
- (d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this sub-section; and
- (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Oneida Business Committee.

123.4-6. *Trust Enrollment Department.* When a per capita payment is approved, the Trust Enrollment Department shall:

- (a) Develop and finalize a list of the eligible distribution recipients broken down into the following categories: minor beneficiaries, majority age beneficiaries, legally incompetent adults, adults and elders. For the purposes of this section, elder means a Tribal member who meets the age requirements as of December 31st of a given year to be eligible for an elder distribution as determined by the effective General Tribal Council Resolution.
- (b) Provide the finalized list of Tribal members eligible to receive the distribution to the Oneida Accounting Department and trust fund accountant.
- (c) Send membership distribution and trust account forms and receipts related to approved per capita payments.
- (d) Manage and maintain the Enrollment Database including, but not limited to, membership and distribution information.
- (e) Process the distribution data and forward the data to the Oneida Accounting Department and trust fund accountant.
- (f) Ensure the availability and liquidity of funds for transfer of the trust funds under the authorization of the Trust Enrollment Committee.
- (g) Provide fund transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Department.
- (h) Work with the Trust Enrollment Committee to establish any necessary trust accounts.
- (i) Monitor all trust accounts for the purposes of necessary reporting, claims and distribution verification.
- (j) Record issued, voided, redeemed, and outstanding check distributions in the Enrollment Database.

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(k) Complete trust account reconciliations.

(l) Calculate attachment amounts for collection of Oneida entity debts and implement Oneida entity attachments.

123.4-7. *Oneida Accounting Department.* When a per capita payment is approved, the Oneida Accounting Department shall:

(a) Initiate and complete the funds transfer upon receipt of funds transfer instructions from the authorizing Oneida entity and shall ensure that the physical movement of funds happens no later than one (1) business day prior to the distribution date.

(b) Record issued, voided and outstanding check distributions on the general ledger.

(c) Complete bank account reconciliations.

(d) Process per capita distribution to the payables ledger.

(e) Perform all activities related to fiscal and calendar year end processes, including providing tax documents and tax reporting as required by applicable law.

(f) Submit notice of any fees associated for reissuance of a distribution to the Trust Enrollment Department, in accordance with sections 123.5-2(d)(1) and 123.5-2(d)(2).

123.4-8. *Tribal Treasurer.* The office of the Oneida Treasurer shall identify funds and shall timely transfer the necessary amount of relevant funds to the Trust Enrollment Committee, the trust fund accountant and the Oneida Accounting Department.

123.4-9. *Attachments.* Per capita payments are benefits offered by the Nation to Tribal members. All per capita payments, except distributions to or from a trust account for a beneficiary, may be subject to attachment prior to distribution in accordance with this section. Entities seeking to attach a per capita payment shall follow the timelines identified in this law.

(a) Per capita payments may only be attached for the following purposes, and in the following order:

(1) Child support arrears ordered by a court of competent jurisdiction. After child support arrears are fully satisfied, the Trust Enrollment Department shall apply any remaining per capita payments for the payment of debt owed to an Oneida entity.

(A) If a Tribal member owes arrears in more than one (1) child support order, the Oneida Nation Child Support Agency shall equally divide the per capita payment based on the number of court orders under which arrears are owed.

(2) Debt owed to an Oneida entity that is past due. After child support arrears and debt owed to an Oneida entity have been fully satisfied, the Trust Enrollment Department shall apply any remaining per capita payment for the payment of a federal tax levy.

(A) “Debt owed to an Oneida entity” includes any money owed to an Oneida entity and any fines that have been issued by an Oneida entity.

(B) If a Tribal member owes debt to more than one (1) Oneida entity, the Trust Enrollment Department shall equally divide the per capita payment based on the number of Oneida entities that are owed debt.

(3) A federal tax levy.

(b) If the amount of the per capita payment exceeds the amount of the attachment, the

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Trust Enrollment Department shall distribute the remaining balance to the Tribal member, provided the Tribal member has met the distribution requirements contained in this law. If there is a remaining unclaimed balance, the Tribal member may request it to be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall deposit any remaining refused balance in accordance with 123.5-5.

(c) *Child Support Attachments.* Claimants or their designated representative shall submit all requests for attachments for child support arrears to the Oneida Nation Child Support Agency.

(1) After receiving an initial attachment request for child support arrears, the Oneida Nation Child Support Agency shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal members whose per capita payment will be attached for child support arrears.

(2) The Oneida Nation Child Support Agency shall prepare a certified accounting of all attachment requests and forward the accounting to the Judiciary.

(3) The Trust Enrollment Department may not process an attachment of a Tribal member's per capita payment to collect child support arrears without first having received an order of determination issued by the Judiciary.

(4) After the child support arrears have been satisfied, if an attachment request is submitted for the same Tribal member's per capita payment based on new child support arrears, the Oneida Nation Child Support Agency shall issue another one-time notice and federal income tax withholding form in accordance with 123.4-9(c)(1).

(d) *Oneida Entity Debt Attachments.* Oneida entities are not required to receive an attachment order from the Judiciary prior to initiating a per capita payment attachment unless an attachment hearing is requested under section 123.4-9(d)(5).

(1) *Notice of Indebtedness.* Prior to initiating an attachment, the Oneida entity owed the debt shall provide written notice of indebtedness to the debtor by first (1st) class mail at the debtor's last known address.

(A) *Frequency of Notice.* Oneida entities shall send debtors notice of indebtedness for each month a debt is owed with each notice being sent a minimum of thirty (30) calendar days apart. Oneida entities shall send two (2) consecutive monthly notices prior to the debt becoming eligible for attachment.

(B) *Notice Content.* Oneida entities shall include the following in their notices of indebtedness:

(i) How many notices of indebtedness have been provided prior to the subject notice and the dates of all prior notices;

(ii) The amount of the debtor's indebtedness;

(iii) Information for making payment on the debt; and

(iv) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the second consecutive monthly notice, the entity may initiate an automatic attachment of the Tribal member's per capita payment.

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(2) *Initiating an Attachment.* After thirty (30) calendar days have lapsed since the Oneida entity sent the second consecutive monthly notice of indebtedness, the Oneida entity may initiate an attachment by providing the debtor with a final notice of indebtedness with intent to attach. The Oneida entity shall send the final notice to the debtor by certified mail. Additionally, the Oneida entity shall post notice of intent to attach in the Nation's newspaper, where such notice includes only the debtor's name, the Oneida entity owed a debt and the Oneida entity's contact information for payment. The Oneida entity shall submit its request to post to the newspaper at the same time as the final notice with intent to attach is mailed in order to ensure that notice is posted in the newspaper a minimum of ten (10) business days before the close of the debtor's thirty (30) calendar day time period to resolve the debt or request an attachment hearing.

(A) The Oneida entity shall include the following in the final notice of indebtedness with intent to attach:

(i) The dates of all prior notices of indebtedness provided to the debtor;

(ii) The amount of the debtor's indebtedness;

(iii) Information for making payment on the debt;

(iv) An explanation that this is the final notice and the Oneida entity has by this final notice initiated an attachment against the debtor;

(v) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the final notice of indebtedness with intent to attach that the Trust Enrollment Department will automatically attach the debtor's available per capita payment in order to satisfy the debt;

(vi) An explanation that the debtor may request an attachment hearing with the Judiciary to contest the validity of the debt by submitting a petition to the Judiciary within thirty (30) calendar days from the date of the of the final notice of indebtedness with intent to attach and that the debtor is responsible for any filing fees required by the Judiciary; and

(vii) A membership distribution form which the debtor shall submit to the Trust Enrollment Department no later than September 1st in order for voluntary federal income taxes to be withheld.

(B) *Attachment Deadlines.* In order for the Trust Enrollment Department to process an attachment for a current per capita payment distribution, Oneida Entities shall:

(i) Send the Trust Enrollment Department a one-time final accounting of all debts subject to attachment no later than July 31st, provided that, in order for a debt to be included in the final accounting, the Oneida entity's shall have sent the debtor a final

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notice of indebtedness with intent to attach in which the debtor's thirty (30) day period to resolve the debt or request an attachment hearing with the Judiciary expires on or before July 31st; and
(ii) Receive, review and respond to the withholding report, in accordance with the deadline provided by the Trust Enrollment Department.

(3) *Calculating the Attachment Amount.* The Trust Enrollment Department shall determine the amount of per capita payment attachment based on the order provided in section 123.4-9(a).

(4) *Payment of Debt Prior to Attachment.* A debtor may make payments towards a debt subject to attachment at any time.

(A) Oneida entities shall keep record of all debtors payments and shall only include unpaid debts in their final accounting submitted to the Trust Enrollment Department.

(B) Once the Oneida entity has submitted the final accounting to the Trust Enrollment Department, the attachment amount may not be modified. If a debtor makes a payment towards a debt subject to attachment after the final accounting has been submitted to the Trust Enrollment Department, the Oneida entity shall reimburse the debtor for payments received in excess of the amount of the debt noticed to the debtor within thirty (30) calendar days from its receipt of the per capita payment attachment.

(5) *Requesting an Attachment Hearing.* A debtor may request an attachment hearing with the Judiciary to contest the validity of the debt by submitting a petition to the Judiciary within thirty (30) calendar days from the date of the final notice of indebtedness with intent to attach, provided that the debtor shall include a copy of the final notice of indebtedness with intent to attach with the petition.

(A) The debtor shall pay any filing fees required by the Judiciary before the Judiciary may consider the petition complete.

(B) When a request for an attachment hearing is timely made, the Oneida entity is still not required to obtain a judgment, but shall receive an attachment order before the Trust Enrollment Department may attach a per capita payment to collect debt owed to the Oneida entity.

(6) *Multiple Attachments.* If a single per capita payment is not sufficient to satisfy the debt owed to an Oneida entity, the Oneida entity shall follow the process contained in section 123.4-9(d)(1)-(5) for each per capita payment it seeks to attach.

(e) *Federal Tax Levy Attachments.* Claimants or their designated representatives shall submit all requests for attachments for a federal tax levy to the Judiciary. The Trust Enrollment Department may not process an attachment of a Tribal member's per capita payment to collect a federal tax levy without first having received an order of determination from the Judiciary.

(f) The Judiciary may order and the Trust Enrollment Department may process attachments against per capita payments of Tribal members who do not return a notarized

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membership payment form as required under 123.5-2(b)(1) or who refuse a payment under 123.5-2(f). If the amount of the per capita payment exceeds the amount of the attachment resulting in a remaining unclaimed balance, the Tribal member may request it to be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall deposit any remaining refused balance in accordance with 123.5-5.

123.4-10. *Federal Income Tax Withholding.*

(a) *Voluntary.* The Trust Enrollment Department shall withhold federal income taxes from a distribution only when the following applies:

(1) Tribal members whose per capita payment is not subject to attachment in accordance with section 123.4-9 may voluntarily request to have federal income tax withheld, provided that Tribal members shall make such requests in accordance with the applicable distribution deadlines.

(2) If the Trust Enrollment Department receives a timely voluntary request to have federal income tax withheld from a Tribal member whose per capita payment is subject to attachment in accordance with section 123.4-9, the Trust Enrollment Department shall apply the federal income tax withholding to the applicable distribution before any attachments are applied.

(b) *Mandatory.* A Tribal member who meets all of the requirements of this law, but refuses to provide the Trust Enrollment Department with his or her social security number or individual tax identification number is subject to mandatory federal income tax withholding from his or her per capita payment, as required by federal law.

(c) *IRS Publication 15a.* The Nation shall comply with the most recent edition of IRS Publication 15a.

123.5. Distributions

123.5-1. *General.* This section sets forth the required processes for distribution of per capita payments.

123.5-2. *Deadlines.* The following deadlines apply in regards to the annual per capita payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline is construed to be the close of business on the following business day. For any additional per capita payments, the Trust Enrollment Committee may establish dates and deadlines associated with those payments, as needed.

(a) *Eligibility.* Eligibility falls into the following categories:

(1) *Filing Deadlines.* An individual who is not a Tribal member shall file a new enrollment application no later than the close of business on January 31st in order to be considered eligible for the following per capita payment.

(A) *Enrollment Deadlines.* An individual is considered enrolled for the purposes of a per capita payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by March 31st.

(B) A newly enrolled Tribal member is eligible only for per capita payments authorized to be distributed following the effective date of his or her enrollment; he or she is not eligible to receive any per capita payments that were distributed prior to the effective date of his or her enrollment.

(2) *Dual Enrollment.* A Tribal member who is dually enrolled with another

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Indian tribe is not eligible for a per capita payment unless his or her relinquishment from the other tribe has been processed and written verification that the member is no longer enrolled with that tribe has been received by the Trust Enrollment Department by September 1st.

(b) *Distribution Documents.*

(1) *Adult Distribution Form and Instructions.* Unless and until the Trust Enrollment Department modifies the Adult Distribution Form and Instructions by creating rules, the Trust Enrollment Department shall comply with the following.

(A) Prior to July 1st of the year the Trust Enrollment Department shall mail membership distribution forms and instructions to all adult Tribal members. Adults shall complete, notarize and return a notarized membership distribution form to the Trust Enrollment Department by close of business on or before September 1st in order to be eligible for a per capita distribution.

(B) The Trust Enrollment Department shall make available late membership distribution forms and shall accept such forms in compliance with section 123.5-2(e).

(2) *Majority Age Beneficiary Distribution Form and Instructions.*

(A) Prior to April 1st of the year the Trust Enrollment Department shall mail trust account forms and instructions to eligible majority age beneficiaries for trust account distributions in accordance with Article III of the Per Capita Trust Agreement.

(B) The Trust Enrollment Department shall make available late trust account forms and shall accept such forms in accordance with Article III of the Per Capita Trust Agreement and IGRA.

(c) *Annual Distribution Date.* The Nation shall distribute all annual per capita payments on or before September 30th, excluding those to beneficiary trust accounts, which are governed by the Per Capita Trust Agreement.

(d) *Direct Deposit.* Adults and majority age beneficiaries may submit a direct deposit form at any time, provided that in order for it to be applied to an upcoming distribution, the Tribal member shall submit the direct deposit form by the applicable per capita or trust account distribution form deadline.

(1) Upon receipt of notice from the Oneida Accounting Department of any fees incurred by the Nation associated with reissuance of a distribution, the Trust Enrollment Department shall deduct any such fees from the reissued distribution. (Fees may include, but are not limited to, stop payment and direct deposit bank rejection fees).

(2) The Nation shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Nation's behalf may not count against the Tribal member as identified in 123.5-2(e)(2)(A).

(e) *Request for a Prior Per Capita Payment.*

(1) *Unclaimed Payment.* Tribal members shall submit a request for a prior adult per capita payment, for which the Tribal member was eligible, but was not

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387 claimed or fully attached, by September 1st of the next year. For example, if a
 388 payment's original distribution date is in 2000, then the deadline is September 1,
 389 2001. If a request is not received by the deadline date, the payment expires and
 390 the Trust Enrollment Department shall deposit such funds in a pooled account in
 391 accordance with 123.5-5.

392 (A) The Trust Enrollment Department shall process prior per capita
 393 payments requested by eligible adults according to the Trust Enrollment
 394 Committee's rules regarding distribution timelines.

395 (B) The Trust Enrollment Department shall process prior per capita
 396 payments requested by a majority age beneficiary in accordance with
 397 Article III of the Per Capita Trust Agreement.

398 (2) *Distribution of Outstanding Checks including rejected Direct Deposit funds.*
 399 Tribal members shall submit a request for an adult or majority age beneficiary's
 400 prior distribution, for which a Tribal member already claimed, but did not redeem,
 401 by September 1st of the next year. For example, if a distribution's original issue
 402 date is in 2000, then the deadline is September 1, 2001.

403 (A) An adult, minor beneficiary or majority age beneficiary's distribution
 404 may only be reissued once. After the distribution/rejected direct deposit
 405 funds are reissued, the Tribal member has ninety (90) days to redeem it or
 406 the distribution will expire and may not be reissued. The Trust Enrollment
 407 Department shall process expired funds in accordance with 123.5-5.

408 (B) Upon receipt of notice from the Oneida Accounting Department of any
 409 fees incurred by the Nation associated with reissuance of a distribution,
 410 the Trust Enrollment Department shall deduct any such fees from the
 411 reissued distribution. (Fees may include, but are not limited to, stop
 412 payment and direct deposit bank rejection fees).

413 (i) The Nation shall waive fees if a check is reissued due to an
 414 error on its behalf. A reissue made due to an error on the Nation's
 415 behalf may not count against the Tribal member as identified in
 416 123.5-2(e)(2)(A).

417 (f) *Refusal of Distributions.* An adult or majority age beneficiary may refuse any
 418 distribution due to him or her, including a trust account distribution, by completing a
 419 refusal form available with the Trust Enrollment Department. However, if the Judiciary
 420 has approved an attachment of an adult distribution, only the remaining portion of the
 421 distribution, if any, may be refused. Majority age beneficiary and legally incompetent
 422 adult distributions are not attachable.

423 (1) Upon submitting the refusal form to the Trust Enrollment Department, the
 424 adult or majority age beneficiary irrevocably waives his or her right to the specific
 425 distribution as indicated on the form.

426 (2) Tribal members seeking to refuse a distribution shall submit refusal forms in
 427 accordance with sections 123.5-2(b)(1)(A) and 123.5-2(b)(2)(A).

428 (3) The Trust Enrollment Department shall process refused distributions in
 429 accordance with 123.5-5.

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123.5-3. *Deceased Tribal Members.*

(a) *Deceased Tribal Member Distribution Forms.* Tribal members are eligible to receive a distribution so long as the Tribal member has complied with the distribution documents and/or distribution rule(s) requirements. This includes distributions identified to be deposited to a trust account. The estate of a deceased Tribal member may not submit a membership distribution form on behalf of the deceased to claim a distribution. The Tribal member is only eligible for the distribution if the Tribal member either personally or through an appointed representative submits the distribution form while the Tribal member is still living. Should a Tribal member become deceased after submitting the required distribution form, but before the distribution date, the Trust Enrollment Department shall continue to issue the distribution in the name of the deceased Tribal member. The Trust Enrollment Department shall not reissue any distributions in the name of any claimant or the decedent's estate.

(b) *Deceased Minor/Majority Age Beneficiary or Legally Incompetent Adult.*

(1) *When there is a Beneficiary Designation Form on Record.* A minor/majority age beneficiary's or a legally incompetent adult's trust account balance upon death is inheritable upon the date of the beneficiary's death in accordance with the most recent beneficiary designation form on record as applicable. Within thirty (30) calendar days of learning of a minor/majority age beneficiary's or legally incompetent adult's death, the Trust Enrollment Department shall provide notice of any remaining trust account balance to the designated beneficiary using the last address on file. Should a designated beneficiary claim the remaining trust account balance, the Trust Enrollment Department shall issue the distribution in the name of the first available designated beneficiary(s). If a designated beneficiary does not request distribution of the remaining balance of a trust account within one (1) year after the Trust Enrollment Department's date of notice, the Trust Enrollment Department shall liquidate and deposit the trust fund account as follows:

(A) For the remaining balance in minor/majority age beneficiary's trust account, to the Oneida Youth Leadership Institute.

(B) For the remaining balance in a legally incompetent adult's trust account, to the General Fund.

(2) *When there is No Beneficiary Designation Form on Record.* The Trust Enrollment Committee shall establish rules defining potentially interested parties in the event there is no signed beneficiary designation form on record. The Trust Enrollment Committee shall also include in such rules notice provisions that put those potentially interested parties on notice that the Nation has a probate process and the potential consequences of a failure to comply with the probate process. Where a distribution is issued in accordance with the issuance of a domiciliary letter naming a personal representative of the estate, the Trust Enrollment Department shall issue the distribution in the name of the estate of the minor/majority age beneficiary or the legally incompetent adult.

123.5-4. *Relinquishment of Tribal Membership.* Tribal members are ineligible for any current,

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future and/or prior per capita payment distributions as of the date his or her Tribal membership is relinquished.

(a) *Relinquished Adult.* The Trust Enrollment Department shall process funds set aside for a relinquished adult's distribution in accordance with 123.5-5.

(b) *Majority Age/Minor Beneficiary Relinquishment.* Upon a majority age/minor beneficiary's relinquishment the following provisions apply:

(1) The Trust Enrollment Department shall deposit any funds in a trust account for a majority age/minor beneficiary in a joint savings account in the name of the Trust Enrollment Committee and the relinquished majority age/minor beneficiary.

(2) A relinquished majority age/minor beneficiary is eligible to claim the joint savings account if he or she is eighteen (18) years of age by September 1st of the distribution year and submits the majority age distribution form by July 1st of the same year. In addition, a relinquished majority/minor age beneficiary shall claim any remaining funds held in the joint savings account prior to the first distribution following his or her twenty-first (21st) birthday.

(3) A relinquished majority age/minor beneficiary may refuse his or her joint savings account funds at the age of eighteen (18). The proof of education requirement is not required to refuse joint savings account funds, however the relinquished majority age/minor beneficiary shall satisfy the requirements of section 123.5-2(f).

(4) The Trust Enrollment Department shall follow the Trust Enrollment Committee's standard operating procedure for allocating any fees necessary for the establishment and maintenance of a relinquished majority age/minor beneficiary's joint savings account to the said account.

(5) The Trust Enrollment Department shall deposit any unclaimed joint savings account funds in a Pooled Account in accordance with section 123.5-5.

(c) *Legally Incompetent Adult Relinquishment.* Upon a legally incompetent adult's relinquishment the Trust Enrollment Department shall disburse any funds in a trust account for the legally incompetent adult to the guardian of the legally incompetent adult.

(1) If the trust account funds for a legally incompetent adult are not claimed within one (1) year after the date of relinquishment, the Trust Enrollment Department shall liquidate and deposit the trust fund account in accordance with 123.5-5.

123.5-5. *Pooled Account.* Pooled account funds are identified by the Trust Enrollment Department, to be used for a purpose designated by General Tribal Council. Pooled account funds result from the following.

(a) *Expiration of Unclaimed Per Capita Payments.* Tribal Members' rights to unclaimed Per Capita Payments expire upon the occurrence of any one (1) of the following:

(1) A Tribal member submits a refusal form under 123.5-2(f);

(2) A Tribal member fails to request a prior distribution or trust account funds within the time provided under this law and/or the Per Capita Trust Agreement;

(3) An adult receives a distribution in accordance with 123.5-3(a) and the distribution is not redeemed within one (1) year of the date of distribution;

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(4) The estate of a deceased majority age/minor beneficiary fails to request distribution of the trust account within the time provided under 123.5-3(b); or

(5) The guardian of a deceased legally incompetent adult fails to request distribution of the trust account within the time provided under 123.5-3(c).

123.6. Minor/Majority Age Beneficiaries and Legally Incompetent Adults

123.6-1. *Minor Beneficiaries.* This section sets forth a consistent method to protect and preserve the interests of minor beneficiaries in any distribution to which a minor beneficiary may be eligible. All distributions to minor beneficiaries are governed by this law, IGRA, the Tribal Revenue Allocation Plan and the Per Capita Trust Agreement.

(a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish standard operating procedures for setting up, monitoring and distributing the trust accounts. The Trust Enrollment Committee may choose to maintain pooled or individual accounts, separate accounts for each distribution or series of distributions, or any other combination which is in the best interests of the beneficiaries and which is consistent with the terms of the Per Capita Trust Agreement and the Trust Enrollment Committee's investment policy.

(1) The Trust Enrollment Committee is responsible for the protection and preservation of per capita payment funds for beneficiaries. As part of that responsibility, the Trust Enrollment Committee shall complete and issue any necessary reports to the beneficiaries. The Trust Enrollment Committee shall develop rules, which establish valuation dates and frequency of reports and identify data critical to the completion of the reports. The Trust Enrollment Committee may delegate such reporting responsibilities to duly selected vendors.

(b) *Costs of Account.* The Trust Enrollment Department shall apply administrative costs related to a trust account to the said account. Administrative costs are those costs related to third party fees and expenses resulting from managing the accounts. Administrative costs do not include any costs related to the expenses of the Trust Enrollment Committee or Trust Enrollment Department.

(c) *No Guarantee.* It is the Trust Enrollment Committee's responsibility to invest beneficiaries' distributions in accordance with the Per Capita Trust Agreement. Because the market affects the value of trust accounts, beneficiaries are not guaranteed any specific amount of distribution made prior to becoming a majority age beneficiary.

(d) *Disbursement to Majority Age Beneficiaries.* Disbursement of trust account funds to majority age beneficiaries is governed by the Per Capita Trust Agreement, provided that to be eligible for a distribution, the majority age beneficiary is required to:

(1) Meet the age and education requirements where:

(A) If the majority age beneficiary has proof of education by September 1st of the distribution year as required by the Per Capita Trust Agreement, he or she is eligible for distribution at eighteen (18) years of age.

(B) If the majority age beneficiary does not have proof of education by September 1st of the Distribution year as required by the Per Capita Trust Agreement, he or she remains eligible to claim their trust account funds

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upon reaching twenty-one (21) years of age.

(C) *Exceptions.* The following Tribal members are exempt from the requirement to provide proof of education in order to be eligible for a minor trust account distribution prior to reaching twenty-one (21) years of age:

(i) Majority age beneficiaries declared to be a legally incompetent adult under 123.6-2. In such circumstances, the Trust Enrollment Department shall liquidate and deposit any funds from the minor's trust account into a legally incompetent adult trust account.

(ii) Majority age beneficiaries who have documentation of learning or other disability from a professional qualified to make such a diagnosis and who are able to present a certificate of attendance showing he or she has attended twelve (12) years of school. In such circumstances, that certificate of attendance is deemed the equivalent to proof of education.

(D) *Fraudulent Proof of a Diploma.* In the event the Trust Enrollment Department deems that a majority age beneficiary has submitted fraudulent proof of education, the Trust Enrollment Department shall:

(i) If distribution has not been made to the Tribal member, withhold distribution of the trust account funds until the requirements of this law have been met;

(ii) Impose a fine against the Tribal member of one-third (1/3) of the Tribal member's entire trust account funds;

(iii) Notify the Tribal member of the following:

(a) His or her proof of education has been deemed fraudulent;

(b) If not already distributed to the Tribal member, the trust account funds may not be distributed until he or she submits valid proof of education or reaches twenty-one (21) years of age;

(c) A fine of one-third (1/3) of the Tribal member's entire trust account funds has been imposed; and

(d) How to appeal the Trust Enrollment Department's determination of the fraudulent proof of education, including any applicable time limits.

(iv) If necessary to satisfy the fine, take action to have the Tribal member's future per capita payments attached in accordance with this law.

(v) Deposit any funds collected to pay a fine imposed pursuant to this section in a pooled account in accordance with 123.5-5.

(2) Complete and submit a majority age beneficiary distribution form and/or deferral payment agreement by July 1st of the distribution year. A majority age beneficiary may postpone distribution of all or some of his or her trust account

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funds by entering into a deferral payment agreement pursuant to the Per Capita Trust Agreement.

123.6-2. *Legally Incompetent Adults.* This section sets forth a consistent method to protect and preserve the interests of legally incompetent adults in any distribution for which they may be eligible. If a distribution includes legally incompetent adults as eligible recipients, the Trust Enrollment Department shall deposit such distributions into a trust account in accordance with the Tribal Revenue Allocation Plan and IGRA.

(a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish standard operating procedures for setting up, monitoring, and distributing trust accounts. When an adult is declared legally incompetent, the Trust Enrollment Department shall place any distribution that is claimed on his or her behalf in a trust account for health, welfare and/or education expenses. The Trust Enrollment Committee shall develop rules for determining when a guardian qualifies for distribution from an established trust account.

(b) *Reversal of Incompetency.* If a court of competent jurisdiction determines that an adult is no longer legally incompetent, the adult shall provide the Trust Enrollment Department with a certified copy of the order. Provided that the adult is eligible for the distribution and has followed the processes required under this law, upon receipt of an order reversing incompetency, the Trust Enrollment Department shall distribute any funds held in the trust account for the legally incompetent adult to the adult now deemed competent.

123.6-3. *Beneficiary Designation Forms.* The Trust Enrollment Department shall provide all minor/majority age beneficiaries and legally incompetent adults with beneficiary designation forms which name a beneficiary to inherit any remaining trust account balance in the event of the minor/majority age beneficiary's or legally incompetent adult's death. Once every year, the Trust Enrollment Department shall mail such forms out to newly enrolled Tribal members, all persons that became a majority age beneficiary in that year and Tribal members declared a legally incompetent adult in that year or had a new guardian appointed in that year. The beneficiary designation form is required to include the following:

- (a) An explanation of the effect of and benefits to designating a beneficiary(s);
- (b) An explanation of the potential consequences to not naming a beneficiary(s); and
- (c) A signature field for the applicable of the parent/guardian or majority age beneficiary with an explanation of when each party is expected to sign.

123.7. Per Capita Actions

123.7-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or rules.

123.7-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or rules.

123.7-3. In regards to taking actions authorized under this law, complaints filed with the Oneida Judiciary shall name the Trust Enrollment Department.

End.

Adopted - BC-7-12-00-B

Emergency Amendments – BC-01-03-01-B

Emergency Amendments - BC-2-28-01-E

Amendments - BC-11-06-02-A (Elder Per Capita)

Emergency Amendments - BC-6-25-03-G (Child support

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priority for attachment)	diploma; dual enrollments)
Amendments - BC-6-16-04-C (Child support priority for attachment)	Emergency Amendments extended – BC-11-09-11-E (Fraudulent diploma; dual enrollments)
Emergency Amendments - BC-9-12-07-A (one-time per capita payment)	Amendments Adopted – BC-05-09-12-B (Fraudulent diploma, dual enrollments)
Amendments – BC-04-22-09-A (High School Diploma; legally incompetent adults)	Emergency Amendments – BC-09-12-12-A (Change in distribution date) Expired 3-12-13
Emergency Amendments – BC-06-08-11-D (Fraudulent	Amendments Adopted – BC-08-14-13-D

MEMORANDUM

DATE: January 11, 2017
FROM: Rae Skenandore, Project Manager
TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
RE: **Fiscal Impact of the Per Capita Amendments**

I. Background

This Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D. A public meeting was held on December 22, 2016. The fiscal analysis was completed on Draft 17.

According to the Legislative Reference Office, the new Law contains the following:

- Reduce the frequency of per capita distributions to elders while still maintaining the elders' payments by placing elders on the same distribution schedule as adults.
- Allow per capita distributions to all Tribal members who have completed the required distribution forms, even if the Tribal member becomes deceased before the per capita distribution.
- Create the majority age (18) beneficiary category distinct from minor beneficiary.
- Include provisions that allow all persons with per capita trust accounts to name beneficiaries.
- Clarify how per capita distributions held in trust accounts are "inheritable" when the beneficiary is deceased.
- Establish bank fees for closed accounts and returned distributions.
- Transfer the Trust and Enrollment Committee hearing authority to the Oneida Judiciary.
- Revise the attachment process to allow entitles to collect debt owed to the Nation without requiring a judgment from a court.

II. Executive Summary of Findings

A “Fiscal Impact Statement” means an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the law after implementation. Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

According to the Director for the Trust and Enrollment Committee, there are no projected increases in expenses due to the implementation of these amendments. In fact, it is anticipated that there may be some incalculable administrative savings due to the decrease disbursements. Amendments will take effect during the Fiscal Year 2017 payouts.

III. Financial Impact

No impact.

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the Oneida Business Committee and General Tribal Council has full information with which to render a decision.



Memorandum

TO: Oneida Entities
FROM: Brandon Stevens, LOC Chairperson
DATE: February 22, 2017
RE: Per Capita Law Oneida Entity Debt Attachments

Today the Oneida Business Committee adopted amendments to the Per Capita law which include a change to the process for collecting outstanding debt owed to the Nation. The new process no longer requires an order from a court of competent jurisdiction. Oneida entities can now collect debt by processing an attachment by noticing the Oneida member directly. These amendments become effective on March 8, 2017. The requirements for attaching a Tribal Member's per capita payment for satisfaction of a debt owed to the Nation are provided in section 123.4-6 of the Per Capita law, which is excerpted below for your reference:

123.4-6 (d) *Oneida Entity Debt Attachments.* Oneida entities are not required to receive an attachment order from the Judiciary prior to initiating a per capita payment attachment unless an attachment hearing is requested under section 123.4-9(d)(5).

(1) *Notice of Indebtedness.* Prior to initiating an attachment, the Oneida entity owed the debt shall provide written notice of indebtedness to the debtor by first (1st) class mail at the debtor's last known address.

(A) *Frequency of Notice.* Oneida entities shall send debtors notice of indebtedness for each month a debt is owed with each notice being sent a minimum of thirty (30) calendar days apart. Oneida entities shall send two (2) consecutive monthly notices prior to the debt becoming eligible for attachment.

(B) *Notice Content.* Oneida entities shall include the following in their notices of indebtedness:

- (i) How many notices of indebtedness have been provided prior to the subject notice and the dates of all prior notices;
- (ii) The amount of the debtor's indebtedness;
- (iii) Information for making payment on the debt; and
- (iv) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the second consecutive monthly notice, the entity may initiate an automatic attachment of the Tribal member's per capita payment.

(2) *Initiating an Attachment.* After thirty (30) calendar days have lapsed since the Oneida entity sent the second consecutive monthly notice of indebtedness, the Oneida entity may initiate an attachment by providing the debtor with a final notice of indebtedness with intent to attach. The Oneida entity shall send the final notice to the debtor by certified mail. Additionally, the Oneida entity shall post notice of intent to attach in the Nation's newspaper, where such notice includes only the debtor's name, the Oneida entity owed a debt and the Oneida entity's contact information for payment. The Oneida entity shall submit its request to

post to the newspaper at the same time as the final notice with intent to attach is mailed in order to ensure that notice is posted in the newspaper a minimum of ten (10) business days before the close of the debtor's thirty (30) calendar day time period to resolve the debt or request an attachment hearing.

(A) The Oneida entity shall include the following in the final notice of indebtedness with intent to attach:

- (i) The dates of all prior notices of indebtedness provided to the debtor;
- (ii) The amount of the debtor's indebtedness;
- (iii) Information for making payment on the debt;
- (iv) An explanation that this is the final notice and the Oneida entity has by this final notice initiated an attachment against the debtor;
- (v) An explanation that if the debt is not paid in full within thirty (30) calendar days from the date of the final notice of indebtedness with intent to attach that the Trust Enrollment Department will automatically attach the debtor's available per capita payment in order to satisfy the debt;
- (vi) An explanation that the debtor may request an attachment hearing with the Judiciary to contest the validity of the debt by submitting a petition to the Judiciary within thirty (30) calendar days from the date of the of the final notice of indebtedness with intent to attach and that the debtor is responsible for any filing fees required by the Judiciary; and
- (vii) A membership distribution form which the debtor shall submit to the Trust Enrollment Department no later than September 1st in order for voluntary federal income taxes to be withheld.

(B) *Attachment Deadlines.* In order for the Trust Enrollment Department to process an attachment for a current per capita payment distribution, Oneida Entities shall:

- (i) Send the Trust Enrollment Department a one-time final accounting of all debts subject to attachment no later than July 31st, provided that, in order for a debt to be included in the final accounting, the Oneida entity's shall have sent the debtor a final notice of indebtedness with intent to attach in which the debtor's thirty (30) day period to resolve the debt or request an attachment hearing with the Judiciary expires on or before July 31st; and
- (ii) Receive, review and respond to the withholding report, in accordance with the deadline provided by the Trust Enrollment Department.

For any assistance with the implementation of this new process, please contact your Oneida Law Office representative.

From: Candice E. Skenandore
Sent: Wednesday, February 01, 2017 1:25 PM
To: Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill
Cc: Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: Motion regarding Landlord-Tenant Rule No. 2 Extension
Importance: High

Good Afternoon,

There was some confusion surrounding the subsequent motion regarding the Landlord-Tenant Rule No. 2 Extension and whether or not the LOC actually voted on the motion. After reviewing the LOC meeting recording, it appears that the LOC did not vote on the motion. The motion is as follows:

Motion by Tehassi Hill to incorporate the Landlord-Tenant Rule No. 2 extension into the Landlord-Tenant Rules Extension Resolution; seconded by Fawn Billie.

Could you please respond with a support or oppose on this motion so that the proper action can be reflected in the LOC meeting minutes. Let me know if you have any questions.

From: Ronald W. Hill
Sent: Wednesday, February 01, 2017 7:28 PM
To: David P. Jordan
Cc: Candice E. Skenandore; Brandon L. Yellowbird-Stevens; Fawn J. Billie; Jennifer A. Webster; Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: Re: Motion regarding Landlord-Tenant Rule No. 2 Extension

Support

From: Brandon L. Yellowbird-Stevens
Sent: Wednesday, February 01, 2017 2:08 PM
To: Candice E. Skenandore; David P. Jordan; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill
Cc: Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: RE: Motion regarding Landlord-Tenant Rule No. 2 Extension

support

From: Fawn J. Billie
Sent: Wednesday, February 01, 2017 1:51 PM
To: Candice E. Skenandore; Brandon L. Yellowbird-Stevens; David P. Jordan; Jennifer A. Webster; Ronald W. Hill
Cc: Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: RE: Motion regarding Landlord-Tenant Rule No. 2 Extension

Support

From: Jennifer A. Webster
Sent: Wednesday, February 01, 2017 1:45 PM
To: Candice E. Skenandore; Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Ronald W. Hill
Cc: Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: RE: Motion regarding Landlord-Tenant Rule No. 2 Extension

Support,
 Jenny

From: David P. Jordan
Sent: Wednesday, February 01, 2017 1:30 PM
To: Candice E. Skenandore; Brandon L. Yellowbird-Stevens; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill
Cc: Jennifer A. Falck; Cathy L. Bachhuber; Danelle A. Wilson; Leyne C. Orosco; Rhiannon R. Metoxen
Subject: RE: Motion regarding Landlord-Tenant Rule No. 2 Extension

Support



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chair *BS*
DATE: February 22, 2017
RE: Oneida Code of Laws Reorganization Update

The following is an update regarding BC Resolution #01-13-16-B Oneida Code of Laws Reorganization. Please find attached:

- BC Resolution 01-13-16-B: Oneida Code of Laws Reorganization
- Oneida Code of Laws Reorganization Table
- February 3, 2017 Update to Directors, Managers, and Supervisors

BACKGROUND

BC Resolution #01-13-16-B Oneida Code of Laws Reorganization, directs the Legislative Operating Committee to begin a reorganization of the Oneida Code of Laws.

The Resolution also directs the Legislative Reference Office to conduct a review of all existing laws, and to develop a conversion table which would list all sections contained in the law as it was previously organized and in the new adopted format. After review, the LRO Director determined that creating a conversion chart and then actually doing the updating was not the most efficient way to complete the project. The conversion table would have taken significantly longer to develop than completing the project itself.

In December 2016, the LRO staff updated the entire Oneida Code of Laws at one time, making the conversion table unnecessary.

On January 18, 2017, the LOC approved the final draft of Oneida Code of Laws Reorganization Table. Minor updates were made to the Code of Laws to reflect this final draft, primarily adding an "Education" title.

IMPLEMENTATION

On February 1, 2017, the LRO began updating the Oneida Register web site and that work was completed on February 3, 2017. A memo was sent out to the organization on February 6, updating tribal departments.

Currently, The Register includes both previous chapter numbers and the new chapter and title numbers, for user's reference.

No content was changed in the Code of Laws, per BC Resolution 01-13-16-B.

REQUESTED ACTION

Accept as information.

CODE OF LAWS REORGANIZATION

Updated : 01/16/2017

- Title 1. Government and Finances
- Title 2. Employment
- Title 3. Health and Public Safety
- Title 4. Environment and Natural Resources

- Title 5. Business
- Title 6. Property and Land
- Title 7. Children, Elders and Family
- Title 8. Judicial System
- Title 9. Education

<div> <div>Current law that is being amended</div> <div>Proposed law</div> <div>P Means currently policy</div> <div>* Law requires approval of federal government</div> </div>			
Title 1. Government and Finances This title includes those laws that are related to government function of GTC, OBC, LOC, boards, committees, commissions and tribal agencies.	Previous Chapter	New Chapter	Adopting Entity
Administrative Procedures Act	1	101	OBC
Oneida Election Law	2	102	GTC
Code of Ethics	3	103	GTC
Removal Law	4	104	GTC
Comprehensive Policy Governing Boards, Committees and Commissions	P	105	OBC
Administrative Rulemaking	17	106	OBC
Open Records and Open Meetings	7	107	OBC
Audit Law	8	108	OBC
Legislative Procedures Act	16	109	OBC
Oneida General Tribal Council Ten Day Notice Policy	P	110	GTC
Oneida General Tribal Council Meeting Stipend Payment Policy	P	111	GTC
Sovereign Immunity	14	112	OBC
Protection and Management of Archeological & Historical Resources	12	113	OBC
Notary Act	82	114	OBC
Tobacco	60	115	OBC
Oneida Nation Seal and Flag	-	116	OBC
Business Committee Meetings Law	-	117	OBC
GTC Meetings Law		118	OBC
Compliance and Enforcement	-	119	OBC

Sanctions and Penalties Law	-	120	GTC
Budget Management and Control	-	121	OBC
Research Protection Act	-	122	OBC
Per Capita	9	123	OBC
Membership Ordinance	10	124	GTC
Community Support Fund	P	125	OBC
Pardon and Forgiveness	5	126	OBC
Cemetery Law	75	127	OBC
Oneida Nation Arts Program-Dollars for Arts Project	P	128	OBC
Children's Burial Fund Policy	P	129	OBC
Hall of Fame	83	130	OBC
Endowments	84	131	OBC
Title 2. Employment This title includes those laws related to employment with the Nation.	Previous Chapter	New Chapter	Adopting Entity
Employment	-	201	GTC
Drug and Alcohol Free Work Place Policy	P	202	OBC
Oneida Worker's Compensation Law	13	203	OBC
Garnishment	58	204	OBC
Furlough Policy	P	205	OBC
Back Pay	P	206	OBC
Layoff Policy	P	207	OBC
Investigative Leave Policy	P	208	OBC
Early Return to Work	309	209	OBC
Vehicle Driver Certification Policy (Potentially repealed and combined with Fleet Management Policy)	P	210	OBC
Employee Protection Policy (Potentially repealed by Employment Law)	P	211	OBC
Oneida Fleet Management Policy	P	212	OBC
Military Service Employee Protection Act	97	213	OBC
Child Abuse & Neglect, Oneida Policy on Reporting	P	214	OBC
Computer Resources Ordinance	15	215	OBC
Attorney Contract Policy	P	216	OBC
Conflict of Interest	P	217	OBC
Social Media Policy	P	218	OBC
Oneida Travel and Expense Policy	P	219	OBC
Paper Reduction Policy	P	220	OBC
Oneida Early Childhood Program – Internal Investigation of Complaints	P	221	OBC

Parent Policy Leave (Potentially repealed and replaced in the Employment Law)	P	222	OBC
Workplace Violence Prevention	-	223	OBC
Fitness for Duty	-	224	OBC
Whistleblower Law	-	225	OBC
<u>Title 3. Health and Public Safety</u> This title includes those laws related to preserving the health and public safety on the Nation's reservation.	Previous Chapter	New Chapter	Adopting Entity
Oneida Nation Law Enforcement Ordinance	37	301	OBC
Emergency Management and Homeland Security	35	302	OBC
Oneida Safety Law	33	303	OBC
Oneida Tribal Regulation of Domestic Animals Ordinance	34	304	OBC
Oneida Food Service Code	36	305	OBC
Tattooing and Body Piercing	32	306	OBC
Anonymous Letters Policy	P	307	OBC
VAWA/Banishment	-	308	GTC
<u>Title 4. Environment and Natural Resources</u> This title includes those laws related to preservation of the environment and the natural resources found on the reservation.	Previous Chapter	New Chapter	Adopting Entity
Tribal Environmental Response	40	401	OBC
Non-Metallic Mine Reclamation	41	402	OBC
Woodcutting Ordinance	42	403	OBC
Well Abandonment Law	43	404	OBC
Recycling and Solid Waste Disposal	44	405	OBC
Hunting, Fishing and Trapping	45	406	OBC
On-Site Waste Disposal Ordinance	46	407	OBC
Sanitation Ordinance	47	408	OBC
Water Resources Ordinance	48	409	OBC
All-Terrain Vehicle Law	49	410	OBC
Clean Air Policy	P	411	OBC
Agriculture Law	-	412	OBC
Environmental, Health and Safety Law	-	413	OBC
<u>Title 5. Business</u> This title includes those laws related to Nation enterprises and conducting business with the Nation.	Previous Chapter	New Chapter	Adopting Entity
Oneida Nation Gaming Ordinance	21	501	OBC*
Indian Preference in Contracting	57	502	OBC

Independent Contractor Policy	P	503	OBC
Small Business Loans	55	504	OBC
Motor Vehicle Registration	51	505	OBC
Oneida Vendor Licensing	56	506	OBC
Alcohol and Beverage Licensing Law	59	507	OBC
Room Tax Law	61	509	OBC
Industrial Hemp	-	510	OBC
Tribally-owned Business Organization Code	-	511	OBC
Secured Transactions	-	512	OBC
<u>Title 6. Property and Land</u> This title includes those laws related to the use and regulation of land within the reservation.	Previous Chapter	New Chapter	Adopting Entity
Real Property Law	67	601	OBC*
Leasing	65	602	OBC*
Building Code	66	603	OBC
Condominium Ordinance	68	604	OBC
Zoning and Shoreland Protection	69	605	OBC
Tribal Environmental Quality Review	200	606	OBC
Local Land Use Regulation Reimbursement Policy	P	607	OBC
Disposition of Excess Tribal Property Policy	P	608	OBC
Public Use of Tribal Land	38	609	OBC
Eviction and Termination	709	610	OBC
Landlord-Tenant	710	611	OBC
Mortgage and Foreclosure	612	612	OBC
Probate Code	-	613	OBC
<u>Title 7. Children, Elders and Family</u> This title includes those laws that effect Oneida children, elders and the family unit.	Previous Chapter	New Chapter	Adopting Entity
Marriage	71	701	OBC
Divorce, Annulment, Legal Separation	72	702	OBC
Paternity	77	703	OBC
Child Support	78	704	OBC
Child Custody, Placement and Visitation	79	705	OBC
Guardianship	-	706	OBC
Child Welfare	-	707	OBC
Children's Code		708	OBC

<u>Title 8. Judicial System</u> This title includes those laws related to the Oneida Judicial system.	Previous Chapter	New Chapter	Adopting Entity
Judiciary	150	801	GTC
Judiciary Canons of Judicial Conduct, Oneida Tribal	152	802	OBC
Rules of Civil Procedure	153	803	OBC
Rules of Evidence, Oneida Judiciary	155	804	OBC
Rules of Appellate Procedure	154	805	OBC
Family Court	151	806	OBC
Family Court Rules, Oneida	156	807	OBC
Capping Damages and Awards from the Judicial System	-	808	OBC
Rules for Administrative Procedure	-	809	OBC
<u>Title 9. Education</u> This title includes those laws related to the education matters, including the Oneida Nation School system and Higher Education	Previous Chapter	New Chapter	Adopting Entity
Trust Scholarship Fund Policy	P	901	OBC
Oneida Higher Education Scholarship	-	902	GTC

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 # 01-13-16-B Oneida Code of Laws Reorganization

- 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 current organization of the Oneida Code of Laws is not sustainable moving forward because there are not adequate chapters reserved to continue developing laws in certain topic groups such as environmental related laws, familial related laws, property related laws and business related laws; and
- WHEREAS,** moving forward the Legislative Operating Committee (LOC) shall begin a reorganization of the Oneida Code of Laws; and
- WHEREAS,** under the new organization structure laws will be organized into general categories called Titles that group laws with similar subject matter, the individual laws will be called Chapters and individual laws will continue to be organized into Sections in accordance with Section 16.11-2 of the Legislative Procedures Act; and
- WHEREAS,** the LOC, via the Legislative Reference Office (LRO), shall conduct a review of all existing laws for the purpose of updating all references to current laws' sections, which will be renumbered based on the new organizational structure; and
- WHEREAS,** as each Title is prepared, the LOC shall bring them one-by-one to the Oneida Business Committee for approval and adoption; and
- WHEREAS,** because not all of the Titles will be adopted at the same time, each Title must be brought forward with a conversion table, which will list all sections contained in the law as it was previously organized and the renumbering of each section as reorganized under the new structure, to be used as a tool when referencing laws that have not yet been reorganized; and

WHEREAS, as the new Titles are adopted, the LOC, via the LRO, shall include them on the Oneida Register in the format of a table of contents that shows all Titles and Chapters within the code with links to each law remaining on the main page of the Oneida Register; and

WHEREAS, this reorganization will contain formatting revisions only and will not amend the content of any existing legislation and accordingly is not subject to the requirements of the Legislative Procedures Act; and

WHEREAS, this Resolution repeals any portions of prior resolutions that conflict with this reorganizational structure; and

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee hereby directs the LOC to begin a reorganization of the Oneida Code of Laws in accordance with this Resolution.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 8 members were present at a meeting duly called, noticed and held on the 13th day of January, 2016; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.


Lisa Summers, 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 Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: All Oneida Directors, Managers, and Supervisors
FROM: Jennifer Falck, Legislative Reference Office Director *JF*
DATE: February 3, 2017
RE: Oneida Code of Laws Reorganization

BACKGROUND

In 2015, the Legislative Operating Committee (LOC) began work on reorganizing the Oneida Code of Laws. As the Oneida Nation continues to amend and develop legislation through the Legislative Operating Committee (LOC), it has become clear that the current organization of the Oneida Code of Laws is no longer sustainable. As organized, the code no longer allowed for additional laws related to property and provided little expansion for laws relating to vehicles, the environment, and family.

The Oneida Business Committee adopted BC Resolution 01-13-16-B which directs the LOC to reorganize the Code of Laws. The new structure organizes the laws into categories called Titles, and groups laws with similar subject matter into those Titles. The individual laws are called Chapters. Laws will continue to be organized in Sections in accordance with the Legislative Procedures Act.

IMPLEMENTATION

In January 2017, the LOC approved a final Reorganization Table (Attachment A). The new design categorizes laws by subject matter, and allows for more laws to be placed in each title.

The previous code allowed ten laws per chapter, and the new code allows for one hundred laws per chapter. In addition, categorizing the laws by subject matter should assist those not familiar with the code in finding the law they are interested in.

The Legislative Reference Office (LRO) has begun updating the Code of Laws on the Nation's website: Oneida-nsn.gov/laws. While the site is under construction, it will include information that indicates each law's previous chapter number. That information is also found below in Attachment A.

CITATION METHOD

For citation purposes, use the following format;

4 O.C. 406.1-1(a) (1)

4	Title 4. Environment and Natural Resources
O.C.	Oneida Code
406	Hunting, Fishing, and Trapping
1-1	Section
(a)	Sub-section
(1)	Sub-sub section



FINAL REMARKS

Please review the reorganization table and update your area's accordingly. If you have question, please contact the LRO Director at jfalck@oneidanation.org.

A good mind. A good heart. A strong fire.



ATTACHMENT A.

	Current law that is being amended	}	P	Means currently policy
	Proposed law		*	Law requires approval of federal government
Title 1. Government and Finances				
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Administrative Rulemaking		17	106	OBC
Open Records and Open Meetings		7	107	OBC
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Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chair *BS*
DATE: February 22, 2017
RE: Oneida Code of Laws Reorganization Update

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REQUESTED ACTION

Accept as information.

February 2017

February 2017							March 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
5	6	7	1	2	3	4	5	6	7	1	2	3	4
12	13	14	15	16	17	18	12	13	14	15	16	17	18
19	20	21	22	23	24	25	19	20	21	22	23	24	25
26	27	28					26	27	28	29	30	31	

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jan 29 - Feb 4	Jan 29	30	31	Feb 1	2	3	4
				9:00am 2:00pm FW: LOC Meeting (BC_Conf_Room) - Taniquelle J. Thurner	3:00pm 4:30pm Rules of Administrative Procedure (Peacemaking Room, Judiciary) - Taniquelle J. Thurner	9:00am 10:00am FW: 2nd Quarter Update Meeting (BC_Exec_Conf_Roo m) - Jennifer A. Falck	
Feb 5 - 11	5	6	7	8	9	10	11
				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)		9:00am 10:00am FW: Higher Education Legislation Work Me 10:00am 11:00am FW: Work Meeting- GTC Meetings Law (BC_E	
Feb 12 - 18	12	13	14	15	16	17	18
		GTC Meeting (Radissoi 8:30am 9:30am LOC Prep Meeting (BC_Conf_Room) - Jennifer A. Falck		9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC	12:15pm 2:00pm FW: Endowments Amendments Public Meeting (BC_Exec_Conf_Roo m) - Maureen S. Per	9:00am 11:00am FW: Work Meeting- COE, Comp Policy, Removal, S & P's (BC_Exec_Conf_Roo m) - Jennifer A. Falck	
Feb 19 - 25	19	20	21	22	23	24	25
		GTC Meeting (Radissoi		8:30am 12:00am BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
Feb 26 - Mar 4	26	27	28	Mar 1	2	3	4
		3:00pm 4:30pm FW: GTC Meeting Law- Work Meeting (BC_Exec_Conf_Roo m) - Jennifer A. Falck					

March 2017

March 2017							April 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4							1
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29
							30						

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb 26 - Mar 4	Feb 26	27	28	Mar 1	2	3	4
				9:00am 2:00pm FW: LOC Meeting (BC_Conf_Room) - Taniquelle J. Thurner	12:15pm 2:15pm Public Meetings for the Drug and Alcohol Free Workplace Policy and the Landlord Tenant Law		
Mar 5 - 11	5	6	7	8	9	10	11
				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
Mar 12 - 18	12	13	14	15	16	17	18
			3:00pm 4:00pm FW: LOC Prep Meeting (BC_Conf_Room) - Jennifer A. Falck	9:00am 2:00pm FW: LOC Meeting (BC_Conf_Room) - T 9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L			
Mar 19 - 25	19	20	21	22	23	24	25
	GTC Meeting (Radisson)			8:30am 12:00am BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
Mar 26 - Apr 1	26	27	28	29	30	31	Apr 1
		GTC Meeting					