



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

March 1, 2017 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
  - 1. February 15, 2017 LOC Meeting Minutes
- III. Current Business**
  - 1. Cemetery Law Amendments
  - 2. Independent Contractor Policy Amendments
  - 3. Children's Code
  - 4. Business Committee Meetings Law
  - 5. S. Benton re: Petition to Change Pre-employment Drug Testing for Marijuana
- IV. New Submissions**
- V. Additions**
  - 1. Legal Resource Center Governing Documents
- VI. Administrative Updates**
  - 1. Public Meeting E-poll
- VII. Executive Session**
- VIII. Recess/Adjourn**



## **LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center

February 15, 2017 9:00 a.m.

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

**Excused:** Fawn Billie

**Others Present:** Clorissa Santiago, Candice Skenandore, Tani Thurner, Jennifer Falck, Rae Skenandore, Cathy Bachhuber, Nancy Barton, Mike Debraska, Brad Graham, Bonnie Pigman, Robert Collins II

### **I. Call to Order and Approval of the Agenda**

Brandon Stevens called the February 15, 2017 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Tehassi Hill to approve the agenda with the addition of the Per Capita Law Amendments; seconded by David P. Jordan. Motion carried unanimously.

### **II. Minutes to be approved**

#### **1. February 1, 2017 LOC Meeting Minutes**

Motion Jennifer Webster to approve the February 1, 2017 LOC meeting minutes; seconded by Tehassi Hill. Motion carried unanimously.

### **III. Current Business**

#### **1. Rules of Administrative Procedure (00:48-22:43)**

Motion by David P. Jordan to accept the memorandum and remove the Rules of Administrative Procedures from the Active Files List; seconded by Tehassi Hill. Motion carried unanimously.

### **IV. New Submissions**

### **V. Additions**

#### **1. Per Capita Law Amendments (22:45-42:15)**

Motion by David P. Jordan to forward the revised Per Capita Law Amendments to the Oneida Business Committee for consideration with the addition of a redline from February 8, 2017 draft to current; seconded by Jennifer Webster. Motion carried unanimously.

### **VI. Administrative Updates**

#### **1. February 1, 2017 Minutes-Enter E-poll Results into the Record (42:18-44:05)**

Motion by David P. Jordan to approve and enter the e-poll results regarding the February 1, 2017 minutes into the record; seconded by Tehassi Hill. Motion carried unanimously.

**2. Code of Laws Reorganization Project (44:08-51:40)**

Motion by Jennifer Webster to accept the update regarding the Code of Laws Reorganization Project as information; seconded by David P. Jordan. Motion carried unanimously.

**3. Active Files List Updates (51:40-01:24:23)**

Motion by Jennifer Webster to upgrade the Domestic Animals Ordinance Amendments, the Children's Code, Code of Ethics Amendments, and the Sanctions and Penalties Law from medium priority to high priority; seconded by Tehassi Hill. Motion carried unanimously.

Motion by David P. Jordan to remove Fitness for Duty from the Active Files List; seconded by Tehassi Hill. Motion carried unanimously.

Motion by Jennifer Webster to establish a high priority level for the Petition: Child Care Department Consumer Complaint Policy; seconded by Tehassi Hill. Motion carried unanimously.

Motion by Jennifer Webster to establish a high priority level for the Independent Contractor Policy Amendments; seconded by David P. Jordan. Motion carried unanimously.

Motion by Tehassi Hill to upgrade the Tribal Environmental Response Amendments from low priority to medium priority; seconded by Jennifer Webster. Motion carried unanimously.

Motion by David P. Jordan to upgrade the Land Commission Bylaws Amendments and the Rules of Civil Procedure Amendments from low priority to medium priority; seconded by Tehassi Hill. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Tehassi Hill to adjourn the February 15, 2017 Legislative Operating Committee meeting at 10:25 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee  
March 1, 2017

## Cemetery Law Amendments

<b>Submission Date:</b> 8/5/15	<b>Public Meeting:</b> None held yet
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This request for amendments was brought to the LOC by the Oneida Law Office. Amendments were requested to correct the name of the Cemetery, which was changed by resolution of the Oneida Land Commission on May 11, 2015. Additional revisions may also be necessary to change who is responsible for the cemetery's maintenance.*

**8/5/15 LOC:** Motion by David P. Jordan to add the Cemetery Law Amendments to the active files list with himself as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

**8/12/15 OBC:** Determine responsible area for cemetery maintenance. Item sent to a Business Committee special meeting agenda at the adjournment of the meeting.

**8/17/15 OBC:** Motion by David Jordan to defer this issue to the September 23, 2015, regular Business Committee meeting and direct the Tribal Secretary to schedule the special Business Committee work meeting and that an invitation be extended to all interested parties, including departments and families impacted, seconded by Jennifer Webster. Motion carried unanimously

**9/2/15:** OBC work meeting. Attendees include Brandon Stevens, Tehassi Hill, Fawn Billie, Jennifer Webster, Michelle Mays, Douglass McIntyre, various departments and family members of those buried in the cemetery.

**9/23/15 OBC:** Motion by Lisa Summers to place an indefinite land use moratorium on area designation # 18 'Where the Water Birds Nest', identified in the Public Use of Land Law, and to defer the cemetery issues identified today to the Business Committee Officers for follow-up with a final action plan to be brought by the November 11, 2015, regular Business Committee meeting, seconded by David Jordan. Motion carried unanimously.

Motion by Lisa Summers to direct the Chairwoman's Office to send out communications, regarding the indefinite land use moratorium directive, to the Business Committee's Direct Reports, appropriate Boards, Committees, and Commissions, and affected parties, including sweat lodge users and families impacted, seconded by David Jordan. Motion carried unanimously.

Amendment to the second motion by Melinda J. Danforth to inform users of the sweat lodge and families of the cemetery. Motion fails for lack of support.

**10/7/15 LOC:** Motion by Jennifer Webster to accept the memorandum update and defer the Cemetery Law Amendments back to the Legislative Operating Committee and bring back when ready. Noting that the Legislative Operating Committee is waiting on the four Oneida Business Committee Officers to make a decision regarding cemetery maintenance; seconded by David P. Jordan. Motion carried unanimously.

**11/10/15 OBC:** Motion by Tehassi Hill to accept and approve the recommendations provided in the Business Committee Officers' memorandum dated November 5, 2015, seconded by Jennifer Webster. Motion carried unanimously.

Motion by Jennifer Webster to request the Trust and Enrollment Committee to send out updated communications to the families of the cemetery, seconded by David Jordan. Motion carried unanimously.

**12/16/15 LOC:** Motion by Jennifer Webster to accept the Cemetery Law Amendments memorandum B and to include language which requires communication pertaining to the history of the land and possible issues that may result if encasements are not used; seconded by David P. Jordan. Motion carried unanimously.

**12/23/15 OBC:** Motion by Lisa Summers to accept the Cemetery Action Plan update dated December 3, 2015, and to request the Legislative Operating Committee revisit this item once the study is completed, seconded by Brandon Stevens. Motion carried unanimously.

**1/6/16 LOC:** Motion by Jennifer Webster to defer the draft Cemetery Law Amendments to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; seconded by David P. Jordan. Motion carried unanimously.

**2/17/16 LOC:** Motion by Jennifer Webster to accept the legislative analysis for the Cemetery Law Amendments and defer to the sponsor pending the results of the hydrogeology study; seconded by Fawn Billie. Motion carried unanimously.

**3/9/16 OBC:** Motion by Tehassi Hill to accept the presentation regarding the Oneida Sacred Burial Grounds per GTC Directive, seconded by Trish King. Motion carried unanimously.

Amendment to the main motion by Tehassi Hill to request an update at the first regular Business Committee meeting in June regarding potential locations of the cemetery, seconded by Trish King. Motion carried unanimously.

**5/4/16 LOC:** Motion by Fawn Billie to defer the Cemetery Law Amendments to the sponsor's office and bring back when ready; seconded by David P. Jordan. Motion carried unanimously.

**6/8/16 OBC:** Motion by Lisa Summers to accept the information in the memorandum from the Trust Department dated May 31, 2016, as information, noting there have been two (2) identified alternative sites for a cemetery should the need arise and to send this item to the next available Officers' meeting for continued follow-up with the overall cemetery work plan, seconded by Tehassi Hill. Motion carried unanimously.

#### **Next Steps:**

- Accept the Public Meeting Packet and forward the Cemetery Law Amendments to a public meeting to be held on March 30, 2017.

NOTICE OF  
**PUBLIC MEETING**  
TO BE HELD  
**THURSDAY, March 30 at 12:15 p.m.**  
IN THE  
**OBC CONFERENCE ROOM**  
**(2<sup>nd</sup> FLOOR—NORBERT HILL CENTER)**

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

**TOPIC: CEMETERY LAW  
AMENDMENTS**

**This is a proposal to amend the existing Cemetery Law which would:**

- ♦ Designate Land Management with administrative and maintenance oversight.
- ♦ Designate the Community Public Health Officer with authority over situations involving decedents who have died of communicable diseases.
- ♦ Grant rulemaking authority to Land Management, the Environmental Resource Board and the Community Public Health Officer.
- ♦ Update the complaint process regarding the implementation and enforcement of this law.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit [www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact the Legislative Reference Office.

**PUBLIC COMMENT PERIOD  
OPEN UNTIL April 6, 2017**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

**Legislative Reference Office**  
**PO Box 365 Oneida, WI 54155**  
**LOC@oneidanation.org**  
**Phone: (920) 869-4376 or (800) 236-2214**  
**Fax: (920) 869-4040**



## Cemetery Law Legislative Analysis

### SECTION 1. BACKGROUND

REQUESTER: Oneida Law Office/ OBC	SPONSOR: David P. Jordan	DRAFTER: Kelly McAndrews	ANALYST: Maureen Perkins
<b>Intent of the Amendments</b>	Current amendments were brought forward to recognize the name of the Sacred Burial Grounds (Tsi' Tyeya'Tat'alih) and establish maintenance responsibilities.		
<b>Purpose</b>	Establish administrative authority for Oneida Nation cemeteries, establish maintenance responsibilities, govern the sale, transfer and recordkeeping of plots, establish eligibility criteria, establish a process for disinterment, and delegate authority pursuant to Oneida laws.		
<b>Affected Entities</b>	Trust Enrollment Department, Land Management, Oneida Land Commission, Environmental Resource Board, Community Public Health Officer, Oneida Police Department, Oneida Conservation Department, enrolled Tribal members, their families (including step children) and descendants who are or may be interred at an Oneida Nation cemetery		
<b>Affected Legislation</b>	Administrative Rulemaking, Public Use of Tribal Land, Emergency Management and Homeland Security		
<b>Enforcement/Due Process</b>	<p>The Environmental Resource Board shall promulgate rules concerning prohibited uses of Oneida Nation cemetery grounds <i>[see 127.8-2]</i>. The Oneida Police Department or Oneida Conservation Department may issue citations for violation of this law or the cemetery rules in accordance with applicable Oneida law <i>[see 127.8-2(a)]</i>. Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with applicable law <i>[see 127.8-2(b)]</i>.</p> <p>Any Individual may file a complaint with Land Management regarding the implementation and enforcement of this law <i>[see 127.9-1]</i>. Land Management shall respond to the complaint with a remedy within 5 business days of the receipt of the complaint to the individual filing the complaint, the Oneida Land Commission and the Environmental Resource Board <i>[see 127.9-2]</i>.</p>		
<b>Public Meeting</b>	No public meeting held yet.		

### SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Legislative Operating Committee is considering the proposed amendments to establish maintenance responsibilities with the appropriate department and also to recognize the Oneida name of the existing cemetery. Additional amendments have evolved through the consultation process with affected entities.
- B. The Oneida Nation Cemetery is non-denominational and benefits the Oneida community by providing a resting place for Oneida members and their families.

### SECTION 3. CONSULTATION

- A. The Oneida Law Office staff consulted with the Community Public Health Officer and area coroner's offices to include applicable sections of the amendments. Additionally, Land Management and the



Trust Enrollment Department were consulted to identify the appropriate entity to manage the Nation's cemetery.

## SECTION 4. PROCESS

- A. The appropriate legislative process has been followed to create the amendments.
- B. The current amendments were added to the Active Files List on August 15, 2015. Since that time multiple work meetings have occurred.

## SECTION 5. CONTENTS OF THE AMENDMENTS

A. The law has been amended as follows:

- The purpose section was updated to include administrative authority, maintenance responsibility and delegate authority pursuant to Oneida laws *[see 127.1-1]*.
- Several definitions were added *[see 127.3-1]*:
  - Decedent means a person who has died.
  - Disinterment permit means the form established by Land Management to authorize removal of a human corpse from a grave or tomb.
  - Judiciary means the judicial system that was established by Oneida General Tribal Council to administer the judicial authorities and responsibilities of the Oneida Nation.
  - Remains means the body of a deceased person, regardless of its state, and includes cremated remains. "Remains" is synonymous and may be used interchangeably with "decedent" and "corpse".
  - Reservation means all the lands and waters within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
  - Rule means a set of requirements, including citation fees and penalty schedules, in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.
- The definition for family was expanded to include additional relationships beyond an Oneida Nation member's parent, spouse and children:
  - Family means husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, step-parent and step-children as established through a certified copy of the original marriage license, foster children, adopted children, kinship and fictive kinship relationships and/or a person who accepts legal responsibility for the decedent *[see 127.3-1(d)]*.
- The following definitions were removed:
  - Days was removed because the standard definition was used in the current law and it is not necessary to define a word used in the everyday sense *[see 127.3-1(a) of current law]*.
  - Tribe or Tribal was removed and replaced with Nation to refer to the Oneida Nation in alignment with the Oneida Nation Constitution *[see 127.3-1(g) of current law]*.
- Oneida Sacred Burials Grounds, also known as Tsi' Tyeya?Tat'alih, was recognized *[see 127.4-1]*.



- Administrative authority changed from the Trust Enrollment Department to Land Management [see 127.4-3]. Additional administrative duties include:
  - Issuing disinterment permits [see 127.4-3(a)].
  - Requesting additional portions of land to be designated for use as an Oneida Nation cemetery [see 127.4-3(f)].
  - Maintaining records concerning all plots [see 127.4-3(e)].
- Land Management has been designated to maintain Oneida Nation cemeteries [see 127.4-4]. Additional maintenance responsibilities include:
  - ensuring appearance is kept in accordance with established rules [see 127.4-4(b)] which they shall create [see 127.8-1],
  - entering into agreements to meet maintenance responsibilities [see 127.4-4(c)], and
  - oversight of any position created to care for the cemeteries [see 127.4-4(d)].
- A public health emergency and communicable diseases section was added to the law which gives the Community Public Health Officer authority over situations that arise involving decedents who have died of communicable diseases [see 127.4-5].
  - The Community Public Health Officer shall determine conditions of disposal of a decedent with a communicable disease dangerous to public health [see 127.4-5(a)]. A corresponding list of communicable diseases shall be maintained and provided to affected departments [see 127.4-5(a)(1)].
  - Require labeling of remains of a decedent with a communicable disease [see 127.4-5(b)].
  - Maintain or require the maintenance of a written or electronic record of all remains and if unknown may request a local coroner or medical examiner to obtain any fingerprints, photographs, or identifying dental information and / or collect a DNA sample from the remains and transmit this information to any interested public health authority [see 127.4-5(c)].
- Repatriated remains were added to the list of eligibility for interment in an Oneida Nation cemetery [see 127.5-1(b)(2)].
- The requirement that the Enrollment Department is present at each disinterment and reinterment and restrictions for who may be present during disinterment or reinterment have been removed [see 127.6-7(g) of current law].
- Vendors performing opening and closing are now required to have the qualifications and experience to perform openings for the burial of caskets [see 127.6-3(c)(1)].
- Land Management is now responsible to provide information concerning the potential effects if a burial container is not used [see 127.6-4].
- The requirements for disinterment have been amended and disinterment no longer requires an order from the Judiciary. Disinterment can now take place with an order from the Judiciary, the issuance of a disinterment permit, or reburial by Land Management to resolve a recordkeeping error [see 127.7-1(a) to (c)].
  - The list of person's who can request a disinterment has expanded to include:
    - An individual, as designated in writing by the decedent as listed in the Authorization for Final Disposition [see 127.7-3(b)(1)].
    - Any other person authorized, under obligation, or agreeing to dispose of the decedent's corpse [see 127.7-3(b)(7)].

- Complaints regarding the implementation or enforcement of this law are now filed with Land Management rather than the Oneida Trust Enrollment Committee [see 127.9-1]. Land Management shall respond to complaints in writing to the individual filing the complaint, Land Management and to the Environmental Resource Board within 5 days [see 127.9-2].

#### **Rulemaking Authority**

The following entities have been granted rulemaking authority under this law in accordance with the Administrative Rulemaking law.

- Land Management shall create rules in order to carry out their responsibilities under this law [see 127.4-3(j)].
- Land Management may establish rules related to the appearance and maintenance of an Oneida Nation cemetery [see 127.4-4(b) and 127.8-1].
- Land Management shall establish rules regarding maximum height, width and thickness requirements for monuments or flush markers placed at a plot [see 127.6-6].
- Land Management shall create rules regarding plot and marking fees [see 127.6-3].
- The Environmental Resource Board has been granted rulemaking authority regarding provisions related to the Public Use of Tribal Lands law [see *Public Use of Tribal Land*, 6 O.C. 609.4(g)] authorizing the Environmental Resource Board to promulgate rules related to prohibited uses of Oneida Nation cemetery grounds [see 127.8-2].
- Provisions related to the Emergency Management and Homeland Security law [see *Emergency Management and Homeland Security*, 3 O.C. 302.7] have been added authorizing the Community Public Health Officer to promulgate rules related to public health emergencies and communicable diseases [see 127.4-5].

**B.** The law has been significantly redrafted.

### **SECTION 6. INTENT**

**A.** The purpose of the law has been updated to clearly state the intent is to establish administrative authority for the Oneida cemetery, establish cemetery maintenance responsibility, govern the sale, transfer and recordkeeping of plots, establish eligibility for interment, establish a process for disinterment, and delegate rulemaking authority.

**B.** It is clear that the law applies to those eligible for interment, those who visit the Oneida cemetery, the Trust Enrollment Department, Land Management, Oneida law enforcement, Oneida Conservation Department, the Environmental Resource Board, Oneida Land Commission and the Community Public Health Officer.

### **SECTION 7. EFFECT ON EXISTING LEGISLATION**

**A.** No Oneida laws will be impacted by this legislation and there are no conflicts with existing legislation.

### **SECTION 8. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

**A.** The proposed legislation will not affect existing rights of members of the Nation.

**B.** Due process was addressed in the law:

- The Environmental Resource Board shall promulgate rules concerning prohibited uses of Oneida Nation cemetery grounds *[see 127.8-2]*.
  - The Oneida Police Department or Oneida Conservation Department may issue citations for violation of this law or the cemetery rules in accordance with applicable Oneida law *[see 127.8-2(a)]*.
  - Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with applicable law *[see 127.8-2(b)]*.
  - Any Individual may file a complaint with Land Management regarding the implementation and enforcement of this law *[see 127.9-1]*. Land Management shall respond to the complaint with a remedy within 5 business days of the receipt of the complaint to the individual filing the complaint, the Oneida Land Commission and the Environmental Resource Board *[see 127.9-2]*.
- D.** Land Management will now be responsible to enter into contracts with the appropriate vendor to carry out applicable provisions in the law *[see 127.4-3(j) and 127.4-4(c)]*.
- E.** Land Management will now be responsible for setting fees and rules in accordance with the Administrative Rulemaking law *[see 127.6-3]*.

## SECTION 9. ENFORCEMENT

- A.** The Oneida Police Department or Oneida Conservation may issue citations for violation of this law or the cemetery rules in accordance with applicable Oneida law *[see 127.8-2(a)]*. Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with applicable law *[see 127.8-2(b)]*.
- B.** There are existing human resources available for enforcement.

## SECTION 10. ACCOUNTABILITY

- A.** Land Management is responsible for administration *[see 127.4-3]* and maintenance *[127.4-4]* of the Oneida Cemetery. The Community Public Health Officer is responsible for issuing and enforcing the law including the power to take possession or control of any remains and make orders specific to embalming, interment, cremation, disinterment, transportation, or other disposal *[see 127.4-5]*.
- B.** The Community Public Health Officer shall provide and maintain a list of communicable diseases and other notifiable conditions to affected departments *[see 127.4-5(a)(1)]*.
- C.** The list will be available to affected departments and the public by request *[see 127.4-5(a)(1)]*.

**Title 1. Government and Finances– Chapter 127**  
**CEMETERY LAW**  
**Tsi? Lotiya?tata Olihwa'ke**  
*The matters concerning when they bury the body*

127.1. Purpose and Policy	127.6. Interment and Plots
127.2. Adoption, Amendment, Repeal	127.7. Disinterment
127.3. Definitions	127.8. Prohibited Items and Behavior on Cemetery Grounds
127.4. Administration and Authority	127.9. Reporting.
127.5. Eligibility and Ownership	

**127.1. Purpose and Policy**

127.1-1. *Purpose.* The purpose of this law is to establish administrative authority for Oneida Nation cemeteries on the Oneida Reservation, establish cemetery maintenance responsibility, govern the sale, transfer and recordkeeping of plots, establish who is eligible for interment, establish a process for disinterment, and delegate authority pursuant to Oneida laws.

127.1-2. *Policy.* It is the policy of the Nation that all enrolled Oneida Nation members, their families and descendants may be interred in an Oneida Nation cemetery.

**127.2. Adoption, Amendment, Repeal**

127.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-19-89-E and amended by resolutions BC-6-29-05-A, BC-1-14-09-E, BC-07-23-14-B and BC-\_\_\_\_\_.

127.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

127.2-3. 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.

127.2-4. 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.

127.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**127.3. Definitions**

127.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Decedent” means a person who has died.

(b) “Descendant” means a person who is not enrolled in the Nation, but is a blood relative in the direct line of descent of an Oneida Nation member.

(c) “Disinterment” means to exhume interred human remains or cremated human remains.

(d) “Disinterment permit” means the form established by Land Management to authorize removal of a human corpse from a grave or tomb.

(e) “Family” means husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, step-parent and step-children as established through a certified copy of the original marriage license, foster children, adopted children, kinship and fictive kinship relationships and/or a person who accepts legal responsibility for the decedent.

(f) “Interment” means to bury remains.

(g) “Judiciary” means the judicial system that was established by Oneida General Tribal Council to administer the judicial authorities and responsibilities of the Oneida Nation.

(h) “Nation” means the Oneida Nation.

(i) “Reinterment” means to rebury remains.

(j) “Remains” means the body of a deceased person, regardless of its state, and includes cremated remains. “Remains” is synonymous and may be used interchangeably with “decedent” and “corpse”.

(k) “Reservation” means all the lands and waters within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(l) “Rule” means a set of requirements, including citation fees and penalty schedules, in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

#### **127.4. Administration and Authority**

127.4-1. The land designation, administrative duties and maintenance responsibilities for the Oneida Sacred Burials Grounds, also known as Tsi’ Tyeya’ Tat’alih and any other cemetery owned by the Nation shall be as provided within this section.

127.4-2. *Land Designation Responsibilities.* The Oneida Land Commission shall designate parcel(s) of land to be used for one (1) or more Oneida Nation cemeteries.

127.4-3. *Administrative Responsibilities.* Land Management shall be responsible for the administrative duties for all Oneida Nation cemeteries. These duties include:

(a) Issuance of disinterment permits, where appropriate. An approved disinterment permit constitutes authorization to transport the remains and reinter the disinterred remains at an approved location within the boundaries of the Oneida Reservation. If the remains are being transported outside the boundaries of the Oneida Reservation and/or reinterment is occurring at a location outside the boundaries of the Oneida Reservation, other laws may apply and the parties involved are responsible for compliance. Permits shall include:

(1) Information that is necessary to identify the decedent;

(2) The date and place of death;

(3) The current place of interment;

(4) The intended place of interment, the name of the person requesting the disinterment; and

(5) The name of the person in charge of the disinterment.

(b) Maintaining vital statistics of decedents interred, disinterred, and/or reinterred in an Oneida Nation cemetery including data derived from certificates death, fetal death reports or related reports, a report for final disposition, authorization for disinterment or reinterment or related judicial order or any other data as determined by Land Management.

(c) Creating long-term strategic plans for Oneida Nation cemeteries and reporting such information as may be required by the Oneida Business Committee or General Tribal Council.

(d) Causing portions of land designed to be used for an Oneida Nation cemetery to be surveyed and mapped into plots, drives and walks.

(e) Maintain records concerning all plots.

(f) Requesting additional portions of land to be designated for use as an Oneida Nation cemetery, if needed.

(g) Selling and transferring plots and restricting the use of plots.

(h) Administering accounting activities related to the sale or transfer of a plot.

(i) Determining how to utilize gifts to an Oneida Nation cemetery.

(j) Establishing rules, entering into agreements with person(s) or entities, where needed, in order to carry out their responsibilities under this law.

127.4-4. *Maintenance Responsibilities.* Land Management shall be responsible for cemetery maintenance duties including:

(a) Maintaining Oneida Nation cemetery grounds.

(b) Ensuring the appearance of an Oneida Nation cemetery is kept in accordance with any established rules.

(c) Entering into agreements and communication with person(s) or entities, where needed, in order to meet the maintenance responsibilities.

(d) Oversight of any position created to care for the cemetery.

127.4-5. *Public Health Emergency and Communicable Diseases.* The Community Public Health Officer shall, in a state of emergency related to public health as duly proclaimed, issue and enforce orders that are reasonable and necessary to provide for the safe disposal of remains in an Oneida Nation cemetery. This includes the power to take possession or control of any remains and make orders specific to embalming, interment, cremation, disinterment, transportation, or other disposal. Additionally, the Community Public Health Officer may:

(a) Determine conditions and order a specific method of disposal of remains in an Oneida Nation cemetery of a decedent who has died of a communicable disease that is dangerous to public health, within a reasonable or necessary timeframe, as determined by the Community Public Health Officer.

(1) The Community Public Health Officer shall provide and maintain a list of communicable diseases and other notifiable conditions to affected departments and the public by request.

(b) Require the labeling of all remains before disposal in an Oneida Nation cemetery with all available identifying information and information concerning the circumstances of death and, in addition, require the remains of a decedent with a communicable disease be clearly tagged to indicate that remains contain a communicable disease and, if known, the specific communicable disease.

(c) Maintain or require the maintenance of a written or electronic record of all remains that are disposed of in an Oneida Nation cemetery, including all available identifying information and information concerning the circumstances of death and disposal. If it is impossible to identify remains prior to disposal in an Oneida Nation cemetery, the Public Health Office or designee may request that the local coroner or medical examiner obtain any fingerprints, photographs, or identifying dental information, and/ or collect a specimen of deoxyribonucleic acid from the remains and transmit this information to any interested public health authority.

127.4-6. *Other requirements.* Neither this section nor any other section of this law relieves any person from all applicable legal, professional, or other requirements.

## **127.5. Eligibility and Ownership**

127.5-1. *Eligibility.* The following persons may be interred in an Oneida Nation cemetery:

(a) An Oneida Nation member, his or her family, or descendants.

(b) Remains that are:

(1) Returned to the Nation;

(2) Repatriated; or

(3) Discovered on the Reservation if Oneida's Cultural Heritage Department, along with any other appropriate Oneida entity has determined that the most suitable place for interment of the remains is an Oneida Nation cemetery.

127.5-2. *Ownership of Plots.* Plots in an Oneida Nation cemetery may be purchased by anyone for individuals eligible to be interred in an Oneida Nation cemetery, as defined in section 127.5-1, but the owner of the plot shall be the individual for whom the plot was purchased, if living, and shall be specified at purchase. Purchase of a plot does not result in any ownership rights in the plot itself, but grants an individual the right to be interred in the plot or determine who will be interred in the plot, subject to the eligibility requirements of this law.

(a) In the event the owner of a plot becomes ineligible to be interred in an Oneida Nation cemetery, the plot shall be resold to the Nation in accordance with section 127.5-2(c).

(b) A plot is not inheritable, but may be transferred from the owner to an individual eligible to be interred in an Oneida Nation cemetery. The transfer of a plot from one owner to another shall be processed through Land Management.

(c) A plot may only be resold by the owner of the plot to the Nation through Land Management. Plots resold to the Nation shall be bought for the original purchase price. The following owners of plots may resell a plot to the Nation:

(1) Competent individuals who are at least eighteen (18) years of age;

(2) Individuals who are less than eighteen (18) years of age, with the written permission of the original purchaser of the plot; and

(3) Incompetent individuals who are at least eighteen (18) years of age, with the permission of their guardian or appropriate power of attorney.

## **127.6. Interment and Plots**

127.6-1. All interments shall be approved by Land Management prior to interment to ensure the health and safety of the public will not be endangered, that the plot is properly marked, and to provide information to any company or contractor providing services for the interment.

(a) In any case in which a decedent will be buried in an Oneida Nation cemetery, Land Management shall report any known situations involving communicable diseases to Oneida's Community Public Health Officer for investigation. The Community Public Health Officer may determine conditions for disposal of the remains in accordance with section 127.4-5.

127.6-2. No interments will be scheduled on the observance of any Holiday recognized by the Nation.

127.6-3. *Cost of Interment.* All fees for the cost of a plot and/or an interment, or disinterment or re-interment, including all the below listed fees, are the responsibility of the decedent's estate, if any, family assuming responsibility, or other individual assuming legal responsibility for the remains, unless otherwise stated. Land Management shall create rules regarding plot and marking fees.

(a) Plot fees shall be paid prior to interment.

(b) Marking fees for the plot or monument location shall be assessed and required each time an interment occurs, regardless of container use or method of disposition.

(c) Opening and closing fees shall be determined by the vendor chosen.



(1) Any such vendor is required to have the qualifications and experience to perform opening and closings. Family members or private persons lacking qualifications or experience to perform burial related openings may not perform openings for the burial of caskets.

(d) There shall be no plot fees or marking fees assessed for remains interred in accordance with section 127.7-4. If the Nation or its contracted vendor opens or closes a plot for the interment of human remains in accordance with section 127.7-4, no fees shall be assessed for the opening or closing of the plot.

127.6-4. *Outer Burial Containers.* Outer burial containers, such as liners and vaults, while recommended, are not required for interment. Land Management shall provide information concerning the potential effects if a burial container is not used.

127.6-5. *Division of Plots.* Each plot may only be used for the interment of:

(a) one (1) human corpse;

(b) one (1) human corpse along with the cremated remains of one (1) other decedent; or

(c) the cremated remains of up to four (4) decedents.

127.6-6. *Monuments and Flush Markers.* No more than four (4) monuments or flush markers shall be allowed per plot. If a plot is designated for more than two (2) decedents, only flush markers can be installed outside of the designated headstone area. Land Management shall establish rules regarding maximum height, width and thickness requirements for monuments or flush markers placed at a plot. In addition, Land Management may establish the types of materials that may be used for monuments or flush markers.

(a) No monuments/markers will be installed from November 1st through May 1st.

## **127.7. Disinterment**

127.7-1. Disinterment from an Oneida Nation cemetery may occur pursuant to any of the following; requirements for each are listed below:

(a) Issuance of an Order for Authorization of Disinterment and/or Reinterment by the Oneida Judiciary;

(b) Land Management's issuance of a disinterment permit; or

(c) Reburial required by Land Management in accordance with section 127.7-4. .

127.7-2 Issuance of an Order for Authorization of Disinterment and/or Reinterment by the Oneida Judiciary. The Oneida Judiciary may issue an Order for Authorization for Disinterment and/or Reinterment as follows:

(a) When a petition for an Order for Authorization for Disinterment and/or Reinterment is filed with the Oneida Judiciary, unless a hearing is held determining circumstances exist that would reasonably justify dispensing of the notice requirement, the petitioner shall serve a copy of the Petition for an Order for Authorization for Disinterment and/or Reinterment upon Land Management and all members of the same or a prior class as listed in section 127.7-3(b). A Petition for an Order for Authorization for Disinterment and/ or Reinterment shall include all of the following:

(1) The decedent's name, date of death, and burial location;

(2) The requester's name, address, telephone number, and relationship with the decedent;

(3) The requester's intent to obtain an order of disinterment/reinterment;

(4) The reason for the disinterment;

(5) The location of reinterment and/or certification that the petitioner will have the remains cremated;

- 240 (6) Individual or entity responsible for the disinterment/reinterment; and  
241 (7) That any objections shall be filed with the Judiciary within five (5) business  
242 days of the notification, or may be presented at the hearing.
- 243 (b) Unless the Judiciary has found that grounds exist to dispense with Notice  
244 requirements, the Judiciary shall set a hearing date on the Petition for Order for  
245 Authorization for Disinterment and/or Reinterment at the earliest possible time after the  
246 deadline for filing objections has passed and shall issue an Order on the matter within ten  
247 (10) days after the hearing. The Judiciary may, for good cause, extend the time for  
248 issuance of an Order for an additional ten (10) days. When entering its decision, the  
249 Judiciary may also take into consideration:
- 250 (1) The cause and manner of the decedent's death, including whether the  
251 Petitioner was convicted for a murder or homicide related offense in connection  
252 with the decedent's death;
- 253 (2) Whether disinterment would create a known public health risk;
- 254 (3) The decedent's will or other evidence of the decedent's wishes concerning  
255 final disposition, if known;
- 256 (4) Any objections filed with the Judiciary or presented at the hearing;
- 257 (5) Whether an order of disinterment or similar order from a court other than the  
258 Judiciary has been issued;
- 259 (6) Whether any required permits regarding re-interment have been obtained; or  
260 (7) Any other factor requiring consideration.
- 261 (c) The Judiciary may deny the Petition for Order for Authorization for Disinterment  
262 and/or Reinterment based solely on an objection to the disinterment either filed or  
263 presented by an individual with the same or a higher priority than the requester.
- 264 (d) *Appeals*. An appeal of an Order issued under this section shall be filed with the  
265 Judiciary within five (5) business days after the order is issued. The Judiciary may  
266 modify the appeal time frame if it is determined exigent circumstances exist requiring  
267 more immediate disinterment. If no appeal is filed, disinterment shall take place within  
268 sixty (60) days after the deadline for filing an appeal has passed. If an appeal is filed, a  
269 stay of the disinterment may be ordered, but only after inquiry into the facts and a finding  
270 that based on the facts it is reasonable to stay disinterment pending appeal.
- 271 127.7-3. *Land Management's issuance of a disinterment permit*. Land Management shall issue  
272 a Permit for Disinterment when all of the following occur:
- 273 (a) The person in charge of the disinterment submits a complete Application for  
274 Disinterment Permit to Land Management.
- 275 (b) The person in charge of the disinterment submits a complete Land Management  
276 Consent Form, signed by any of the following persons, in the order of priority stated  
277 below, when persons in prior classes are not available at the time of application, and in  
278 the absence of actual notice of contrary indications by the decedent or actual notice of  
279 opposition by a member of the same or a prior class:
- 280 (1) An individual, as designated in writing by the decedent as listed in the  
281 Authorization for Final Disposition;
- 282 (2) The decedent's spouse;
- 283 (3) An adult son or daughter of the decedent;
- 284 (4) Either parent of the decedent;
- 285 (5) An adult brother or sister of the decedent;
- 286 (6) A guardian of the person of the decedent at the time of the decedent's death;

(7) Any other person authorized, under obligation, or agreeing to dispose of the decedent's corpse.

(c) Land Management shall deny the request for a Disinterment Permit when an objection to the disinterment is either filed or presented by an individual with the same or a higher priority than the requester. In such cases, Land Management shall refer the requester to the Judiciary.

127.7-4. *Reinterment by Land Management.* Land Management may reinter or disinter human remains that are interred in an Oneida cemetery in another plot in the same cemetery under the following circumstances:

(a) Reinterment is necessary to correct a recordkeeping error made by the Nation or its designee when the human remains were first buried; and

(b) Notification concerning the need for reinterment is made to one of the following, in descending order, by registered mail:

(1) The decedent's spouse;

(2) An adult son or daughter of the decedent;

(3) Either parent of the decedent; or

(4) An adult brother or sister of the decedent.

(c) Land Management shall maintain a record of its attempt to provide notification under this section as part of Land Management's permanent records.

127.7-5. The Nation shall be responsible for making all arrangements and incurring all costs associated with disinterment and reinterment due to a recordkeeping error on the Nation's behalf.

## **127.8. Prohibited Items and Behavior on Cemetery Grounds**

127.8-1. Land Management shall promulgate rules concerning the maintenance and appearance of Oneida Nation cemetery grounds which shall be publically posted, including on Oneida Nation cemetery grounds. Land Management shall notify the Environmental Resource Board of the current rules and any changes to such rules.

(a) Land Management or its designee may remove and dispose of any non-conforming objects from plots and/or cemetery grounds.

127.8-2. In accordance with applicable Oneida law, the Environmental Resource Board shall promulgate rules concerning prohibited uses of Oneida Nation cemetery grounds.

(a) The Oneida Police Department or Oneida Conservation Department may issue citations for violation of this law or the cemetery rules in accordance with applicable Oneida law.

(b) Criminal or any other unlawful activity occurring at an Oneida Nation cemetery shall be handled in accordance with applicable law.

## **127.9. Reporting**

127.9-1. Any individual may file a complaint with Land Management regarding the implementation and enforcement of this law.

127.9-2. Within five (5) business days of the receipt of a complaint, Land Management shall respond in writing indicating any action taken or planned action to remedy the complaint to the individual that filed the complaint, if the address is known, to the Oneida Land Commission, and to the Environmental Resource Board.

*End.*

335 BC-05-19-89-E (Adoption of Burial Ordinance)  
336 BC-02-23-05-F (Emergency Adoption of Amendments)  
337 BC-06-29-05-A (Permanent Adoption of Emergency Amendments)  
338 BC-1-14-09-E (Adoption of Cemetery Law)  
339 BC-10-09-13-B (Adoption of Emergency Amendments)  
340 BC-03-26-14-C (Extension of Emergency Amendments)  
341 BC-07-23-14-B (Adoption of Amendments)



Legislative Operating Committee  
March 1, 2017

# Independent Contractor Policy Amendments

<b>Submission Date:</b> 12/28/16	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This policy was added to the Active Files List because it may conflict with the Indian Preference Law.*

**10/12/16 OBC:** Motion by David Jordan to defer this item to the Legislative Operating Committee, Law Office, and Purchasing Department to develop policies and solutions; and for an update to be brought back within sixty (60) days, seconded by Jennifer Webster. Motion carried with one abstention.

**01/04/17 LOC:** Motion by Tehassi Hill to add the Independent Contractor Policy to the active files list with David P. Jordan as the sponsor; seconded by David P. Jordan. Motion carried unanimously.

**1/11/17 OBC:** Motion by David Jordan to accept the update regarding Departments of Public Works HVAC contracts; and to delete from the agenda, seconded by Trish King. Motion carried unanimously.

**2/1/17 LOC:** 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.

**2/15/17 LOC:** Motion by Jennifer Webster to establish a high priority level for the Independent Contractor Policy Amendments; seconded by David P. Jordan. Motion carried unanimously.

**Next Steps:**

- Accept the draft Independent Contractor Policy Public Meeting Packet and forward to a public meeting to be held on March 30, 2017.

NOTICE OF  
**PUBLIC MEETING**  
TO BE HELD  
**THURSDAY, MARCH 30 at 12:15 p.m.**  
IN THE  
**OBC CONFERENCE ROOM**  
**(2<sup>nd</sup> FLOOR—NORBERT HILL CENTER)**

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

**TOPIC: INDEPENDENT CONTRACTOR  
POLICY AMENDMENTS**

**This is a proposal to amend an existing Tribal law. The amendments:**

- ◆ Clarify that an employee cannot provide services for the nation as an independent contractor, if those services are related to the services he or she performs as an employee, even if s/he is the only independent contractor that qualifies for Indian Preference.
- ◆ Clarify that employees and employee-owned businesses cannot provide services as an independent contractor to any division, department, program, area, business unit or other entity of the Nation, if the services are related to the services performed by the employee.
- ◆ Clarify that employees and employee-owned businesses are not prohibited from providing services as an independent contractor to a Tribally-chartered corporation, even if the services are related to the services performed by the employee.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit [www.oneida-nsn.gov/Register/PublicMeetings](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact the Legislative Reference Office.

**PUBLIC COMMENT PERIOD  
OPEN UNTIL APRIL 6, 2017**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

**Legislative Reference Office**  
**PO Box 365 Oneida, WI 54155**  
**LOC@oneidanation.org**  
**Phone: (920) 869-4376 or (800) 236-2214**  
**Fax: (920) 869-4040**



## Independent Contractors Legislative Analysis

### SECTION 1. BACKGROUND

REQUESTER: OBC	SPONSOR: David P. Jordan	DRAFTER: Taniquelle Thurner	ANALYST: Candice E. Skenandore
<b>Intent</b>	To clarify that Indian Preference does not supersede the Independent Contractors law (Law); by reiterating that Tribal employees and businesses owned by Tribal employees, cannot provide services to the Nation as an independent contractor, if the services to be provided by the independent contractor are related to the services performed by the Tribal employee. The Law is also clarifies that employees can provide services to a Tribally-chartered corporation, even if the services relate to the services performed as an employee.		
<b>Purpose</b>	The purpose of the Law is to regulate the use of independent contractors in order to minimize costs [See <i>Independent Contractors</i> , 5 O.C. 503.1-1].		
<b>Affected Entities</b>	The Oneida Law Office reviews and approves all contracts [See <i>Independent Contractors</i> , 5 O.C. 503.4-1 & 503.4-2]. Any department, program, enterprise or agency of the Nation that enters into contracts with independent contractors.		
<b>Affected Legislation</b>	Indian Preference in Contracting law, Conflict of Interest law		
<b>Enforcement/Due Process</b>	There are no enforcement provisions within this Law. The law sets out specific requirements as to when a current Tribal employee (or an employee-owned business) can be used as an independent contractor; and the law sets out specific requirements governing the format of contracts, and what the Law Office Review must cover, however the law does not identify what would happen if these requirements were not met. The contract between the Oneida Nation (Nation) or an entity of the Nation and the independent contractor must identify the parties who are entering into the agreement and who are responsible for ensuring that the terms of the agreement are met. In addition, every contract or agreement must accompany a conflict of interest disclosure form which identifies all conflicts of interest with the Nation. If an organization or person fails to disclose a conflict of interest, the contract can be terminated [See <i>Conflict of Interest</i> , 2 O.C. 217.5-5].		
<b>Public Meeting</b>	A public meeting has not been held.		

### SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Legislative Operating Committee (LOC) is amending the Law to ensure that an employee who is also an independent contractor does not provide services as an independent contractor that relate to his/her services performed as an employee [See *Independent Contractors*, 5 O.C. 503.1-1].
- B. The expected benefit of this amendment is to clarify that Indian Preference does not supersede the requirements set forth in this Law, especially when an employee is hired as an independent contractor.

### SECTION 3. CONSULTATION

- A. Information obtained from collaboration with the Oneida Law Office was used in the development of this legislative analysis.
- B. A search of similar tribal legislation was conducted and the Lac du Flambeau Band of Lake Superior Chippewa Indians' Procurement and Property Management and Ho Chunk Nation's Tribal



Employment Rights Ordinance, specifically Indian Preference Certification and TERO Registration were reviewed when developing this legislative analysis [See *Lac du Flambeau Procurement and Property Management, CH 13; Ho Chunk Nation 6 HCC ' 3 (7) & (8)*].

## SECTION 4. PROCESS

- A. The developmental process of this Law is in compliance with the process set forth in the Legislative Procedures Act.
- B. December 28, 2016: This item was added to the Active Files List.

## SECTION 5. CONTENTS OF THE PROPOSED AMENDMENTS

- A. The Law allows the Nation to utilize its employees and businesses they own, as independent contractors so long as, among other things, the services performed by the employee are not related to the services that will be provided by the independent contractor. Proposed language is added which clarifies that even if the employee qualifies for Indian Preference, he/she cannot provide services as an independent contractor that relate to services performed as an employee even if he/she is the only independent contractor that has Indian Preference [See *Independent Contractors, 5 O.C. 503.5-1 (a) (1)*].
- B. Language has been added to the Law which prohibits an employee or an employee-owned business from providing services as an independent contractor to any division, department, program, area, business unit or other entity of the Nation, if the services are related to the services performed as an employee [See *Independent Contractors, 5 O.C. 503.5-3 (a)*]. However, the Law also clarifies that it does not prohibit an employee or an employee-owned business from providing services as an independent contractor to a Tribally-chartered corporation, even if the services relate to the services performed as an employee [See *Independent Contractors, 5 O.C. 503.5-3 (b)*].

## SECTION 6. INTENT

- C. The purpose of the Law is clear.
- D. It is clear who this Law applies to.

## SECTION 7. EFFECT ON EXISTING LEGISLATION

- A. This Law affects both the Indian Preference in Contracting (Indian Preference) law and the Conflict of Interest law.
  - 1. *Indian Preference law*: The purpose of the Indian Preference law is to increase economic benefits of the Nation and its members by providing for the maximum utilization of Indian workers and businesses on the Nation's projects which occur on or near the Reservation. In addition, the Indian Preference law ensures that all entities that enter into contracts with or on behalf of the Nation utilize Indian workers and Indian businesses by applying Indian Preference in all aspects of fulfilling the contract, including but not limited to hiring, training, business opportunities, labor and/or professional services and supply of materials [See *Indian Preference, 5 O.C. 502.1-1 & 502.1-2*]. The policy of the Independent Contractors law is to utilize Native American businesses to complete work that the Oneida Nation is unable to complete with its current workforce. The Law requires that the order preference set out in the Nation's Indian Preference law be used in the selection of independent contractors [See *Independent Contractors, 5 O.C. 503.1-2*]. However, the proposed Law clearly states that Indian Preference does not apply when the employee is an independent contractor and the services provided as an independent contractor relate to the services they perform as an employee [See *Independent Contractors, 5 O.C. 503.5-1 (a) (1)*].
  - 2. *Conflict of Interest*: This Law requires all contracts to be reviewed and approved by the Oneida Law Office [See *Independent Contractors, 5 O.C. 503.4-1 & 503.4-2*]. A conflict of interest disclosure form accompanies contracts. If an independent contractor fails to disclose a conflict of

interest as required in the Conflict of Interest law, he/she may have his/her contract terminated  
[See *Conflict of Interest*, 2 O.C. 217.5-5].

**B.** This Law does not conflict with any laws of the Nation; however, the Law does impact the standard operating procedure (SOP) from the Oneida Casino entitled “Avoiding Conflicts of Interest with Employee Owned Businesses”. This SOP states that it is the policy that “businesses owned and operated by Gaming Employees are prohibited from performing contracted (or subcontracted) work for Oneida Casino or any Gaming related projects. . . [but] such businesses still may perform contracted work for non-Gaming Tribal entities in accordance with the Independent Contract Policy. . .” The proposed amendments will not allow an employee-owned business to perform contracted work for any entity of the Nation if that work relates to the services performed as an employee [See *Independent Contractors*, 5 O.C. 503.5-3 (a)].

## **SECTION 8. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

- A.** It was not intended for this Law to allow employees to provide the same services as an independent contractor as they perform in their employment. The proposed amendments make it clear that even if the employee has Indian Preference, he/she still cannot be an independent contractor and provide services that relate to his/her employment.
- B.** Due process is not addressed in this Law; however, according to the Oneida Law Office, the contract will specify the terms of the agreement and identify who is responsible to ensure the terms of the agreement are met. In addition, a conflict of interest disclosure form which accompanies the contract requires the contractor to disclose all conflicts of interest; if he/she fails to disclose a conflict of interest, the contract may be terminated [See *Conflict of Interest*, 2 O.C. 217.5-5].
- C.** When reviewing contracts, the Law Office will need to verify the independent contractor is not an employee or an employee-owned business whose job duties/responsibilities are related to services provided as an independent contractor.
- D.** Other than ensuring that the employee or an employee-owned business who is also an independent contractor is not providing services that relate to services performed as an employee, the process for reviewing and approving contracts will not change.

## **SECTION 9. ENFORCEMENT**

- A.** The Law does not include any enforcement provisions. However, the contracts will identify the parties who are entering into an agreement and also identify who is responsible for ensuring the agreement is met. In addition, if the independent contractor fails to disclose a conflict of interest on the conflict of interest disclosure form, the contract may be terminated.

## **SECTION 10. ACCOUNTABILITY**

- A.** The Oneida Law Office must review and approve all contracts., The review must include 1) verification that sovereign immunity has not been waived, 2) the independent contractor status has not been violated, and 3) the content of the contract meets the legal needs for the protection of the Nation’s assets, description of services, payment and other similar items [See *Independent Contractors*, 5 O.C. 503.4].
- B.** There are no annual reports that are required in this Law. However, if an internal audit is conducted, the Internal Audit Department must make reports to the Audit Committee, Oneida Business Committee, and Administration on a need to know basis. In addition, General Tribal Council members can review the Nation’s annual audit [See *Audit Law*, 1 O.C. 108.7-2 & 108.7-3].
- C.** The annual audit is available to members of the Nation by following the process set forth in the Audit Law [See *Audit Law*, 1 O.C. 108.7].

**SECTION 11. OTHER CONSIDERATIONS**

- A.** If the amendments are adopted, the Oneida Casino should be notified that their “Avoiding Conflicts of Interest with Employee Owned Businesses” SOP may need to be revised.
  - B.** Additional changes were made to ensure the Law is consistent with current drafting practices and to improve the clarity of the Law without affecting the content of the Law.
  - C.** Please refer to the fiscal impact statement for any financial impacts.
-

Draft #4 (Public Meeting Draft) redline to current  
3/1/17

**Title 5. Business – Chapter 503**  
**INDEPENDENT ~~CONTRACTOR POLICY~~ CONTRACTORS**

503.1. Purpose and Policy

503.2. Adoption, Amendment, Repeal

503.3. Definitions

503.4. Form of Contract

503.5. Approval Requirements

**503.1. ~~Purpose and Policy~~**

503.1-1. ~~Purpose.~~ –The purpose of this ~~Independent Contractor Policy~~ law is to regulate the hiring of persons to complete work in order to minimize the costs of ~~Independent Contractors~~ independent contractors.

503.1-2. ~~Policy.~~

(a) ~~It is the policy of the~~ TribeNation to utilize Native American businesses to complete work that the TribeNation is unable to complete through use of its own employees. ~~– All programs, enterprises, and government agencies are encouraged to seek within their own employees those with expertise in any matter before going to~~ Independent Contractors independent contractors.

(b) ~~It is further the policy of the~~ TribeNation that the order of preference, as set out in the ~~Tribe's Nation's~~ Indian Preference ~~Law~~ law, be used in the selection of ~~Independent Contractors~~ independent contractors; in accordance with this law.

**503.2. Adoption, Amendment, Repeal**

503.2-1. ~~This~~ policy law was adopted by ~~motion of~~ the Oneida Business Committee by motion on July 27, 1994 and ~~was~~ amended by resolution BC-02-27-13-A.

503.2-2. ~~This~~ policy law may be amended ~~pursuant to the procedures set out in Tribal law or repealed~~ by the Oneida Business Committee or the Oneida General Tribal Council: pursuant to the procedures set out in the Legislative Procedures Act.

503.2-3. ~~Should a provision of this~~ policy law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy law which are considered to have legal force without the invalid portions.

503.2-4. ~~In the event of a conflict between a provision of this~~ policy law and a provision of another policy law, the provisions of this policy law shall control.

503.2-5. ~~This~~ policy law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~ Nation.

**503.3. Definitions**

503.3-1. ~~This section shall govern the definitions of words and phrases used within this law. –All words not defined herein shall be used in their ordinary and everyday sense.~~

(a) ~~“Deliverable” means an object with specified content and format and~~ must shall be adequately described as to final content.

(b) ~~“Employee” means any individual who is employed by the~~ TribeNation and is subject to the direction and control of the TribeNation with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. ~~–“Employee” includes, but is not limited to, individuals employed by any program or enterprise of the~~ TribeNation, but does not include elected or appointed officials or individuals employed by a Tribally ~~Chartered Corporation~~ chartered corporation. For the purposes of this

Draft #4 (Public Meeting Draft) redline to current  
3/1/17

policy law, individuals employed under an employment contract as a limited term employee are employees ~~of the Tribe~~, not consultants.

(c) “Employee-owned ~~Business Entity~~business entity” means a for-profit business which is majority owned and managed by an individual who is employed by the ~~Tribe~~Nation. Employee-owned ~~Business Entity~~business entity includes, but is not limited to, a partnership, corporation or limited liability company.

(d) “Independent ~~Contractor~~contractor” means an individual who receives payments for services or deliverables, and who receives any tax reporting form other than a W-2 at the end of a taxable year.

(e) “Nation” means the Oneida Nation.

(f) “Service” means an action performed by an ~~Independent Contractor~~independent contractor and ~~must~~shall be adequately described as to the actions that will be taken and final result of the actions taken.

~~(f) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.~~

#### 503.4. -Form of Contract

503.4-1. -All contracts with the ~~Tribe~~Nation shall be in the format approved by the Oneida Law Office. -All departments, programs, enterprises and other agencies of the ~~Tribe~~Nation shall use Oneida Law Office-~~approved~~ contracts.

503.4-2.- All contracts shall be reviewed and approved by the Oneida Law Office before being executed.

503.4-3. -At a minimum, the Oneida Law Office review shall ~~consist of the following~~include verification that:

(a)~~-verification that~~ sovereign immunity has not been waived;

(b) ~~-verification that Independent Contractor~~independent contractor status has not been violated; and

(c)~~-verification that~~ the content of the contract meets the legal needs for the protection of ~~Tribal~~the Nation’s assets, description of services, payment and other similar items.

#### 503.5. -Approval Requirements

503.5-1. -The ~~Tribe~~Nation may ~~hire an individual who is also~~contract with an employee ~~of the Tribe to perform services~~ as an ~~Independent Contractor~~independent contractor, if:

(a)- the services performed by the individual as an employee of the ~~Tribe~~Nation are not related to the services to be provided by the individual as an ~~Independent Contractor~~independent contractor;

(1) This requirement shall apply even if the employee would otherwise qualify for Indian preference as an independent contractor; and even if the employee is the only independent contractor who would otherwise qualify for Indian preference.

(b)- there is no relation between the wages paid to the individual as an employee ~~of the Tribe~~ and the compensation received by the individual for the services to be provided as an ~~Independent Contractor~~independent contractor;

(c)- the individual is engaged in an independent trade, business or profession that is traditionally pursued by ~~Independent Contractors~~independent contractor and the services to be provided by the individual as an ~~Independent Contractor~~independent contractor relate to such trade, business or profession; and

Draft #4 (Public Meeting Draft) redline to current  
3/1/17

(d) ~~the individual offers services as an Independent Contractor~~independent contractor in such trade, business or profession to the general public.

503.5-2. ~~The TribeNation~~ may engage an ~~Employeeemployee~~-owned ~~Business Entitybusiness~~ entity as an ~~Independent Contractorindependent contractor~~ if the following conditions are met:

(a) ~~the Employeeemployee~~-owned ~~Business Entitybusiness~~ entity has a valid Tax Identification Number which is different than the employee's Social Security Number~~number~~;

(b) ~~the TribeNation~~ has no right to direct or control the employees of the ~~Employeeemployee~~-owned ~~Business Entitybusiness~~ entity; and

(c) ~~all payments for Independent Contractorindependent contractor~~ services are made directly to the ~~Employeeemployee~~-owned ~~Business Entitybusiness~~ entity; not to an individual.

503.5-3. Application.

(a) Neither an employee, nor an employee-owned business entity, is eligible to provide services as an independent contractor to any division, department, program, area, business unit or other entity of the Nation, when the services to be provided by the independent contractor relate to the services performed by the employee.

(b) Nothing in this law is intended to limit the right of an employee, or employee-owned business entity, to provide services as an independent contractor for a Tribally-chartered corporation, even if the services provided by the employee are related to the services to be provided by the independent contractor.

*End.*

Adopted - 7-27-94, motion

Adopted - BC-2-15-95-A, Emergency Action Article VII (503.7)

Adopted - BC-7-5-95-B, Emergency Action Article VII (503.7)

Emergency Amended – BC-04-25-12-E

Emergency Extension Amended – BC-10-10-12-B

Amended – BC-02-27-13-A

## Title 5. Business – Chapter 503 INDEPENDENT CONTRACTORS

503.1. Purpose and Policy

503.2. Adoption, Amendment, Repeal

503.3. Definitions

503.4. Form of Contract

503.5. Approval Requirements

### 503.1. Purpose and Policy

503.1-1. *Purpose.* The purpose of this law is to regulate the hiring of persons to complete work in order to minimize the costs of independent contractors.

503.1-2. *Policy.*

(a) It is the policy of the Nation to utilize Native American businesses to complete work that the Nation is unable to complete through use of its own employees. All programs, enterprises, and government agencies are encouraged to seek within their own employees those with expertise in any matter before going to independent contractors.

(b) It is further the policy of the Nation that the order of preference, as set out in the Nation's Indian Preference law, be used in the selection of independent contractors; in accordance with this law.

### 503.2. Adoption, Amendment, Repeal

503.2-1. This law was adopted by the Oneida Business Committee by motion on July 27, 1994 and amended by resolution BC-02-27-13-A.

503.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

503.2-3. 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.

503.2-4. 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.

503.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 503.3. Definitions

503.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Deliverable" means an object with specified content and format and shall be adequately described as to final content.

(b) "Employee" means any individual who is employed by the Nation and is subject to the direction and control of the Nation with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. "Employee" includes, but is not limited to, individuals employed by any program or enterprise of the Nation, but does not include elected or appointed officials or individuals employed by a Tribally-chartered corporation. For the purposes of this law, individuals employed under an employment contract as a limited term employee are employees, not consultants.

(c) "Employee-owned business entity" means a for-profit business which is majority owned and managed by an individual who is employed by the Nation. Employee-owned



Draft #4 (Public Meeting Draft)  
3/1/17

business entity includes, but is not limited to, a partnership, corporation or limited liability company.

(d) “Independent contractor” means an individual who receives payments for services or deliverables, and who receives any tax reporting form other than a W-2 at the end of a taxable year.

(e) “Nation” means the Oneida Nation.

(f) “Service” means an action performed by an independent contractor and shall be adequately described as to the actions that will be taken and final result of the actions taken.

#### **503.4. Form of Contract**

503.4-1. All contracts with the Nation shall be in the format approved by the Oneida Law Office. All departments, programs, enterprises and other agencies of the Nation shall use Oneida Law Office-approved contracts.

503.4-2. All contracts shall be reviewed and approved by the Oneida Law Office before being executed.

503.4-3. At a minimum, the Oneida Law Office review shall include verification that:

(a) sovereign immunity has not been waived;

(b) independent contractor status has not been violated; and

(c) the content of the contract meets the legal needs for the protection of the Nation’s assets, description of services, payment and other similar items.

#### **503.5. Approval Requirements**

503.5-1. The Nation may contract with an employee to perform services as an independent contractor, if:

(a) the services performed by the individual as an employee of the Nation are not related to the services to be provided by the individual as an independent contractor;

(1) This requirement shall apply even if the employee would otherwise qualify for Indian preference as an independent contractor; and even if the employee is the only independent contractor who would otherwise qualify for Indian preference.

(b) there is no relation between the wages paid to the individual as an employee and the compensation received by the individual for the services to be provided as an independent contractor;

(c) the individual is engaged in an independent trade, business or profession that is traditionally pursued by independent contractor and the services to be provided by the individual as an independent contractor relate to such trade, business or profession; and

(d) the individual offers services as an independent contractor in such trade, business or profession to the general public.

503.5-2. The Nation may engage an employee-owned business entity as an independent contractor if the following conditions are met:

(a) the employee-owned business entity has a valid Tax Identification Number which is different than the employee’s Social Security number;

(b) the Nation has no right to direct or control the employees of the employee-owned business entity; and

(c) all payments for independent contractor services are made directly to the employee-owned business entity; not to an individual.

Draft #4 (Public Meeting Draft)  
3/1/17

503.5-3. *Application.*

(a) Neither an employee, nor an employee-owned business entity, is eligible to provide services as an independent contractor to any division, department, program, area, business unit or other entity of the Nation, when the services to be provided by the independent contractor relate to the services performed by the employee.

(b) Nothing in this law is intended to limit the right of an employee, or employee-owned business entity, to provide services as an independent contractor for a Tribally-chartered corporation, even if the services provided by the employee are related to the services to be provided by the independent contractor.

*End.*

---

Adopted - 7-27-94, motion

Adopted - BC-2-15-95-A, Emergency Action Article VII (503.7)

Adopted - BC-7-5-95-B, Emergency Action Article VII (503.7)

Emergency Amended – BC-04-25-12-E

Emergency Extension Amended – BC-10-10-12-B

Amended – BC-02-27-13-A



## Legislative Operating Committee March 1, 2017

# Children's Code

<b>Submission Date:</b> 9/17/14	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Fawn Billie	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This item was carried over into the current term by the LOC. The proposal seeks to develop a Children's Code which would enable the Tribe to take jurisdiction of child welfare matters involving Tribal children. The proposal seeks establishment of a Child Welfare Office and the Oneida Child Protective Board, and would address child welfare proceedings including CHIPS; termination of parental rights; adoption; and foster home licensing.*

**9/17/14 LOC:** Motion by Fawn Billie to add the Children's Code to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously. *Note: Fawn Billie will be the sponsor for this item.*

**12/17/14 LOC:** Motion by Jennifer Webster to move forward with requesting a fiscal analysis; seconded by Tehassi Hill. Secunder withdraws the second, motioner withdraws the motion; motion withdrawn. Motion by Tehassi Hill to direct the Legislative Operating Committee Chair to work with the appropriate staff to develop a memorandum directing the Governmental Services Division Director to fulfill the Finance Department's request for information regarding the Children's Code in order to prepare the fiscal analysis; seconded by Fawn Billie. Motion carried unanimously.

**1/28/15 OBC:** Motion by Lisa Summers to direct the Law Office to create a policy statement and to request the Legislative Operating Committee consider the Children's Code a priority, seconded by Tehassi Hill. Motion carried unanimously. [under F.2. Review Tribal Member Complaint Re: Child Protective Board]

**2/18/15:** *Work meeting held* (with Social Services.) Attendees include: Brandon Stevens, Fawn Billie, Tehassi Hill, Jessica Wallenfang, Fawn Cottrell, Taniquelle Thurner, Danelle Wilson, Michelle Mays, Rae Skenandore, Kathleen Laplant, Jennifer Kruse, Roxann Pazdera, Candice Skenandore, Lynn Franzmeier

**4/15/15 LOC:** Motion by Tehassi Hill to defer the Children's Code for 60 days for the fiscal and administrative analysis; seconded by Fawn Billie. Motion carried unanimously.

**6/17/15 LOC:** Motion by David P. Jordan to grant the 30-day extension requests and to accept the memorandum as FYI; seconded by Fawn Billie. Motion carried unanimously.

**7/15/15 LOC:** Motion by Fawn Billie to continue developing the Children's Code; seconded by David P. Jordan. Motion carried unanimously.

**1/20/16 LOC:** Motion by David P. Jordan to approve the Children's Code memorandum and to forward it to the Oneida Business Committee; seconded by Tehassi Hill. Motion carried unanimously.

**1/27/16 OBC:** Motion by Lisa Summers to accept the update from the Legislative Operating Committee on the new Children's Code timeline, seconded by Trish King. Motion carried unanimously.

**2/11/16:** *Work meeting held.* Attendees include Jennifer Berg-Hargrove, Heather Lee, Michelle Mays, Patricia Garvey, Douglass McIntyre, Maureen Perkins.

- 10/7/16:** *Quarterly Sponsor Update Meeting Held.* Present: Fawn Billie, Cathy Bachhuber, Jennifer Falck, Maureen Perkins, Tani Thurner, Clorissa Santiago. Drafter (MG) was not present but updated the LRO Director before the mtg. She hopes to have a new draft in November or December 2016. Fawn will continue to update the Judiciary on this law, so they can begin to plan for a judge, admin. Staff, etc. if this is adopted.
- 12/19/16:** *Work Meeting Held.* Present: Jennifer Webster, Brandon Stevens, Jennifer Berg-Hargrove, David Jordan, Tehassi Hill, Fawn Billie, Maureen Perkins, Clorissa Santiago, Michelle Gordon, Candice Skenandore, Danelle Wilson, Heather Lee
- 1/23/17:** *Work Meeting w/ ICW.* Present: Jennifer Berg-Hargrove, Heather Lee, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Cathy Bachhuber. Discussion surrounding implementation needs. Next steps include discussion with sponsor on adding exception in jurisdiction with blended families, discussion with Law Office about expanding jurisdiction to allow non-Oneidas to utilize the Family Court when they live on the Reservation and have Oneida parents/siblings, and set up a work meeting with ICW to begin going through Code and identifying ICW's roles and responsibilities.
- 1/23/17:** *Work Meeting w/ OFC.* Present: Hon. Marcus Zelenski, Patricia "Pixie" DeGrand, Jennifer Falck, Cathy Bachhuber, Clorissa Santiago, Candice Skenandore. Discussion surrounding implementation needs. Next steps include obtaining videoconferencing estimates, getting hearing numbers in Brown & Outagamie Counties that involve ICW and discussion with sponsor to determine if Children's Code should include court appointed counsel and juries as provided in State court.
- 2/15/17 LOC:** Motion by Jennifer Webster to upgrade the Domestic Animals Ordinance Amendments, the Children's Code, Code of Ethics Amendments, and the Sanctions and Penalties Law from medium priority to high priority; seconded by Tehassi Hill. Motion carried unanimously.

**Next Steps:**

- Review draft;
- Forward to the Finance Office for a fiscal analysis, due to the Legislative Reference Office April 5, 2017;
- Forward to the Legislative Reference Office for a legislative analysis, due to the Legislative Reference Office April 5, 2017.

## **Title 7. Children, Elders and Family - Chapter 708**

### **CHILD WELFARE**

708.1. Purpose and Policy	708.20. Permanency Plans
708.2. Adoption, Amendment, Repeal	708.21. Change in Placement
708.3. Definitions	708.22. Revision of Dispositional Orders
708.4. Jurisdiction	708.23. Extension of Dispositional Orders
708.5. Oneida Law Office	708.24. Continuation of Dispositional Orders
708.6. Indian Child Welfare Department Duties and Responsibilities	708.25. Guardianship for Certain Children in Need of Protection or Services
708.7. Guardian ad Litem	708.26. Revisions of Guardianship Orders
708.8. Advocate	708.27. Termination of Guardianship
708.9. Order of Preferences for Placement of a Child in Need of Protection or Services	708.28. Termination of Parental Rights
708.10. Taking a Child into Custody	708.29. Voluntary Termination of Parental Rights
708.11. Hearings (General)	708.30. Grounds for Involuntary Termination of Parental Rights
708.12. Emergency Custody Hearing	708.31. Petition for Termination of Parental Rights
708.13. Petition for a Child in Need of Protection or Services	708.32. Initial Hearing on the Termination of Parental Rights
708.14. Notice of Petition	708.33. Fact-finding Hearing for the Termination of Parental Rights
708.15. Discovery and Records	708.34. Department's Termination of Parental Rights Report
708.16. Plea Hearing for a Child in Need of Protection or Services	708.35. Standards and Factors
708.17. Fact-finding Hearing for a Child in Need of Protection or Services	708.36. Dispositions for Termination of Parental Rights
708.18. Department's Disposition Report for a Child in Need of Protection or Services	708.37. Adoption
708.19. Dispositional Hearing for a Child in Need of Protection or Services	708.38. Adoption Procedure
	708.39. Peacemaking and Mediation

#### **708.1. Purpose and Policy**

708.1-1. *Purpose.* The purpose of this law is to provide for the welfare, care, and protection of Oneida children through the preservation of the family unit, while recognizing that in some circumstances it may be in the child's best interest to not be reunited with his or her family. Furthermore, this law strengthens family life by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children to the jurisdiction of the Nation and acknowledging the customs and traditions of the Oneida Nation when raising an Oneida child.

708.1-2. *Policy.* It is the policy of the Nation to ensure there is a standard process for conducting judicial proceedings and other procedures in which children and all other interested parties are provided fair hearings in addition to ensuring their legal rights are recognized and enforced, while protecting the public safety.

#### **708.2. Adoption, Amendment, Repeal**

708.2-1. This law was adopted by the Oneida Business Committee by resolution BC-\_\_\_-\_\_\_-\_\_\_.

708.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

708.2-3. 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.

708.2-4. In the event of a conflict between a provision of this law and a provision of another law or law, the provisions of this law shall control. Provided that, this law repeals the following:

(a) Resolution # BC-09-25-81; and

(b) Resolution # BC-05-13-15.

708.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 708.3. Definitions

708.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Abuse" means any of the following:

(1) Physical injury inflicted on a child by other than accidental means.

(2) Sexual assault.

(3) Sexual exploitation of a child.

(4) Prostitution or trafficking of a child.

(5) Causing a child to view or listen to sexual activity or sexually explicit materials.

(6) Exposing a child to the manufacture, sale, or use of controlled substances.

(7) Emotional damage for which the child's parent(s), guardian, or custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or take steps to address the issue(s).

(b) "Advocate" means a person who is a non-attorney advocate presented to the Court as the representative or advisor to a party.

(c) "Alcohol and other drug abuse impairment" means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcoholic beverages or controlled substances to the extent that the person's health is substantially affected or endangered or the person's social or economic functioning is substantially disrupted.

(d) "Attorney" means a person trained and licensed to represent another person in Court, to prepare documents and to give advice or counsel on matters of law

(e) "Best interest of the child" means the interest of a child to:

(1) Have a full, meaningful, and loving relationship with both parents and family;

(2) Be free from physical, sexual and emotional abuse;

(3) Receive appropriate medical care;

(4) Receive appropriate education;

(5) Be raised in conditions which maximize the chances of the child becoming a contributing member of society; and

(6) Be raised in an environment that is respectful of the child's race(s), culture(s), and heritage(s).

(f) "Child" means a person who is less than 18 years of age.

(g) "Clear and convincing evidence" means that a particular fact is substantially more likely than not to be true.

(h) "Counsel" means an attorney or advocate presented to the Court as the representative or advisor to a party.

(i) "Court" means the Oneida Nation Family Court, which is the branch of the Judiciary that has the designated responsibility to oversee family matters.

(j) "Custodian" or "legal custody" means any person other than a parent or legal guardian to whom legal custody of a child has been granted by court order and has the rights and responsibilities for the following:

(1) To have physical custody of the child as determined by the Court; if physical custody is not with the person having legal custody;

(2) To protect, educate and discipline the child so long as it is in the child's best interest; and

(3) To provide the child with adequate food, shelter, education, ordinary medical care and other basic needs, according to court order. In an emergency situation, a custodian shall have the authority to consent to surgery as well as any other emergency medical care needs.

(k) "Department" means the Oneida Nation Indian Child Welfare Department.

(l) "Dispositional hearing" means a hearing for the Court to make its final determination of a case or issue.

(m) "Emotional damage" means harm to a child's psychological or intellectual functioning evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety, depression, withdrawal, outward aggressive behavior, or a substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development.

(n) "Expert" means a person with special training, experience, or expertise in a field beyond the knowledge of an ordinary person.

(o) "Fact-finding hearing" means a hearing for the Court to determine if the allegations in a petition under this law are proved by clear and convincing evidence.

(p) "Fictive kin" means any person or persons who, to the biological parents of the minor child at issue, have an emotional tie to that parent wherein they are like family.

(q) "Foster home" means any home which is licensed by Department and/or applicable licensing agency and maintained by any individual(s) suitable for placement of children when taken into custody or pending court matters.

(r) "Group home" means any facility operated by a person required to be licensed by the Department and/or applicable licensing agency for the care and maintenance of 5 to 8 children.

(s) "Guardian" means any person appointed by the Court to care for and manage the person and estate of the child in a particular case before the Court. A guardian has the right to make major decisions affecting a child including education, religious and cultural upbringing, the right to consent to marriage, to enlistment in the armed forces, to major surgery and medical treatment and to adoption, or make recommendations as to adoption.

(t) "Guardian ad litem" means a person appointed by the Court to appear at any peacemaking, mediation, or hearing and tasked with representing the best interest of the person appointed for.

(u) "Holiday" means any holiday recognized by the Nation as identified in the Nation's laws, rules and policies governing employment.

(v) "ICWA" means the Indian Child Welfare Act, a federal law that governs jurisdiction over the removal of Native American children from their families-.

(w) "Indian Child Welfare Worker" means a person employed by the Oneida Nation to carry out the duties, objectives and provisions of this law.

(x) "Mediation" means a method of dispute resolution that involves a neutral third party who tries to help disputing parties reach an agreement.

(y) "Nation" means the Oneida Nation.



(z) "Neglect" means failure, refusal, or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child.

(aa) "Parent" means the biological or adoptive parent of a child.

(bb) "Peacemaking" means a method of dispute resolution that is based on traditional methods of dispute resolution and addresses the needs of rebuilding relationships between people.

(cc) "Permanency Plan" means a plan designed to ensure that a child is reunified with his or her family whenever appropriate, or that the child quickly attains a placement or home providing long-term stability.

(dd) "Physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising, or bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

(ee) "Plea hearing" means a hearing to determine whether any party wishes to contest a petition filed under this law.

(ff) "Probable cause" means a reasonable ground for supposing that something is true. "Relative" means any person connected with a child by blood, marriage or adoption.

(gg) "Reservation" means all the land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(hh) "Shelter care facility" means a non-secure place of temporary care and physical custody for children, licensed by the Department and/or applicable licensing agency.

(ii) "Special treatment or care" means professional services which need to be provided to a child or family to protect the well-being of the child, prevent out-of-home placement, or meet the needs of the child.

(jj) "Stepparent" means the spouse or ex-spouse of a child's parent who is not a biological parent of the child.

(kk) "Stipulation" means to make an agreement to do something.

(ll) "Substantial parental relationship" means the acceptance and exercise of significant responsibility for the daily supervision, education, protection and care of a child.

(mm) "Termination of parental rights" means that, pursuant to a court order, all rights, powers, privileges, immunities, duties and obligations existing between parent and child are permanently severed.

(nn) "Warrant" means an order issued by a court commanding a law enforcement officer to perform some act incident to the administration of justice.

#### **708.4. Jurisdiction**

708.4-1. *Personal Jurisdiction.* The Court has jurisdiction over any action brought under this law. Personal jurisdiction over an individual under this law may be established where one party or a child of the parties is any of the following:

(a) a member of the Nation; or

(b) a resident of the Reservation who is also the biological parent of a child that is enrolled or is eligible for enrollment with the Nation; or

(c) an individual who consents to the jurisdiction of the Court by one (1) of the following:

- (1) Filing an action with the Court;
- (2) Knowingly and voluntarily giving written consent to the jurisdiction of the Court;
- (3) Entering a notice of appearance before the Court in an action without concurrently preserving the defense of lack of personal jurisdiction or filing a motion to dismiss for lack of personal jurisdiction within thirty (30) days of entering the notice of appearance; or
- (4) Appearing in an action before the Court without asserting the defense of lack of personal jurisdiction.

708.4-2. *Jurisdiction over Children Alleged to be in Need of Protection or Services.* If personal jurisdiction over the child has been established, the Court has jurisdiction over a child alleged to be in need of protection or services which can be ordered by the Court, and:

- (a) Who is without a parent or guardian;
- (b) Who has been abandoned;
- (c) Whose parent has relinquished custody of the child pursuant to the Nation's laws or state law;
- (d) Who has been the victim of abuse, including injury that is self-inflicted or inflicted by another;
- (e) Who is at substantial risk of becoming the victim of abuse, including injury that is self-inflicted or inflicted by another, based on reliable and credible information that another child in the home has been the victim of such abuse;
- (f) Whose parent or guardian signs the petition requesting jurisdiction under this subsection and is unable or needs assistance to care for or provide necessary special treatment or care for the child;
- (g) Whose guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or unable to sign the petition requesting jurisdiction under this subsection;
- (h) Who has been placed for care or adoption in violation of the Nation's laws or state law;
- (i) Who is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized or institutionalized;
- (j) Who is at least age twelve (12), signs the petition requesting jurisdiction under this subsection and is in need of special treatment or care which the parent, guardian or legal custodian is unwilling, neglecting, unable or needs assistance to provide;
- (k) Whose parent, guardian or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child;
- (l) Whose parent, guardian or legal custodian is at substantial risk of neglecting, refusing or being unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of the child, based on reliable and credible information that the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of another child in the home;
- (m) Who is suffering emotional damage for which the parent, guardian or legal custodian has neglected, refused or been unable and is neglecting, refusing or unable, for reasons

other than poverty, to obtain necessary treatment or to take necessary steps to improve the symptoms;

(n) Who is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent, guardian or legal custodian is neglecting, refusing or unable to provide treatment; or

(o) Who is non-compliant with the Nation's or State's immunization laws.

708.4-3. *Jurisdiction over other Matters Relating to Children.* If personal jurisdiction over the child has been established the Court has jurisdiction over:

(a) The termination of parental rights to a minor;

(b) The appointment, revision, and/or removal of a guardian for a minor; and

(c) The adoption of children.

708.4-4. *Transfer of Cases from other Courts.* If personal jurisdiction over the child has been established the Court has jurisdiction over any action transferred to the Court from any court of competent jurisdiction.

(a) While a case is being transferred to the Court from another court, any time limits established by this law shall be tolled until the next hearing on the matter before the Court.

708.4-5. *Transfer of Cases to other Courts.* The Court may transfer a case under this law to an appropriate state court or another tribal court where the state or other Indian tribe have a significant interest in the child and the transfer would be in the best interest of the child.

## **708.5 Oneida Law Office**

708.5-1. The Oneida Law Office, or a licensed attorney contracted by the Oneida Law Office, shall represent the Nation in all proceedings under this law.

## **708.6. Indian Child Welfare Department Duties and Responsibilities**

708.6-1. The Indian Child Welfare Worker shall carry out the duties and responsibilities set forth in this law which include, but are not limited to the following:

(a) Receive and process all notices sent to the Nation pursuant to ICWA;

(b) Receive, examine, and investigate complaints and allegations that a child is in need of protection or services for the purpose of determining the appropriate response under this law;

(c) Receive referral information, conduct intake inquiries, and determine whether to initiate child welfare proceedings;

(d) Determine whether a child should be held pursuant to the emergency provisions of this law;

(e) Make appropriate referrals of cases to other agencies when appropriate, and share information with other agencies if their assistance appears to be needed or desirable;

(f) Enter into informal dispositions with families;

(g) Provide counseling or any other functions to the child and/or family as designated by the Court;

(h) Identify and develop resources within the community that may be utilized by the Department and Court;

(i) Make reasonable efforts to obtain necessary services for the child and family and investigate and develop resources for the child and family to utilize;

(j) Accept legal custody of children when ordered by the Court;

- (k) Make reports and recommendations to the Court;
- (l) Make recommendations to the Oneida Law Office attorney;
- (m) Perform any other functions ordered by the Court;
- (n) Develop case plans and conduct case plan reviews pursuant to dispositional orders;
- (o) Negotiate agreements for services, record sharing, referral, and funding for child family service records within the Department;
- (p) Provide measures and procedures for preserving the confidential nature of child and family service records within the Department;
- (q) Participate in continuing training, conferences and workshops pertinent to Indian child welfare issues; and
- (r) Maintain a knowledge and understanding of all relevant laws and regulations.

708.6-2. In performing the duties set forth in this law, the Department shall:

- (a) Identify and develop resources in the community calculated to resolve the problems presented in petitions filed in Court, such as the various psychiatric, psychological therapeutic, counseling and other social services available within and outside the Nation;
- (b) Identify and develop resources in the community designed to enhance the child's potential as a member of the Nation;
- (c) Investigate, inspect, and license foster homes, and monitor and supervise foster homes and children in foster care; and
- (d) Adhere to the placement preference order stated in section 708.9.

708.6-3. *Case Plans.* For all cases in which a dispositional order other than dismissal is entered by the Court, the Department shall develop a written plan of service in consultation with the child, if the child is over fourteen (14) years of age, the parent(s), guardian, or custodian, and any other appropriate service providers. Each case plan shall be designed to achieve placement in a setting which most closely approximates a family and in which any special needs of the child may be met. The case plan shall include the following information:

- (a) A description of the type of home or child care institution the child is to be placed in;
- (b) A discussion of the appropriateness of the placement for the particular child;
- (c) A plan for assuring that:
  - (1) The child is receiving proper care while in placement;
  - (2) Services are provided to the parent(s), child, and foster parents to facilitate the return of the child to his or her home or permanent placement; and
  - (3) The need for services of the child in foster placement is met and that the services are appropriate.

708.6-4. *Review.* The Department shall review each case and case plan at no less than six (6) month intervals. The case review shall be open to participation by the child, parent(s), guardian, or custodian or their representative.

- (a) The Department shall develop a written summary report at each case plan review which shall address the following:
  - (1) Continuing need for protection or services and/or placement outside the home;
  - (2) Appropriateness of services and/placement the child is receiving;
  - (3) Compliance with service plans;
  - (4) Progress made toward alleviating or mitigating the circumstances giving rise to the dispositional order; and
  - (5) Projection of a likely date by which the child may be returned home, placed in legal guardianship, or placed for adoption.

(b) When the Department completes the case review, the Department shall forward the written summary report to the Court for review.

(c) Based on the information provided in the summary report by the Department, the Court may determine that a hearing on the matter is necessary.

708.6-5. This law shall be liberally construed to effect the purposes stated in the "Indian Child Welfare Act of 1978", (P.L. 95-608), 25 U.S.C. ss. 1901 et seq.

#### **708.7. Guardian ad litem**

708.7-1. *Appointment.* The appointment of a guardian ad litem shall be as follows:

(a) The Court may appoint a guardian ad litem for any child who is the subject of a child in need of protection or services proceeding;

(b) The Court shall appoint a guardian ad litem for any child who is the subject of a proceeding to terminate parental rights, whether voluntary or involuntary, for a child who is the subject of a contested adoption proceeding, and for a child who is the subject of a contested guardianship proceeding;

(c) The Court shall appoint a guardian ad litem for a minor parent petitioning for the voluntary termination of their parental rights; and

(d) A guardian ad litem may be appointed for any other circumstance the Court deems necessary.

708.7-2. *Qualifications.*

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

(1) is currently certified as a guardian ad litem and in good standing;

(2) has never been convicted of a felony; and

(3) has never been convicted of any crime against a child.

(b) No person may be appointed guardian ad litem in that proceeding who is:

(1) an interested party;

(2) appearing as counsel in the proceeding on behalf of any party; or

(3) related to an interested party, an actual party, the Judge for the proceeding, or an appointing Judge by blood, marriage, adoption or related by a social tie that could be reasonable interpreted as a conflict of interest.

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

(1) has completed guardian ad litem training provided by the Court, another Indian tribe, or a state; or

(2) is recognized as a certified guardian ad litem by another jurisdiction.

708.7-3. *Responsibilities.* The guardian ad litem has none of the rights or duties of a general guardian. The guardian ad litem shall:

(a) be an advocate for the best interests of a child;

(b) consider, but shall not be bound by, the wishes of the child or the positions of others as to the best interests of the child;

(c) investigate the issues and provide a written report to the Court; and

(d) communicate to the Court the wishes of the child, unless the child asks the guardian ad litem to do otherwise.

708.7-4. *Compensation.* The guardian ad litem shall be compensated at a rate that the Court determines is reasonable, to be paid by the parties. The Court may apportion the amount that each party shall pay based on the ability to pay or assess the cost equally between the parties.

The Court may waive the guardian ad litem expense if the cost of the guardian ad litem will impose an immediate and substantial hardship on the parties.

### **708.8 Advocate**

708.8-1. The parent, guardian, or legal custodian of a child has the right to obtain an advocate to representation and advice throughout any proceeding under this law.

#### **708.8-2. Qualifications.**

(a) An advocate shall be an adult who:

(1) is currently certified as an advocate and in good standing;

(2) has never been convicted of a felony; and

(3) has never been convicted of any crime against a child.

(b) No person may be appointed an advocate in that proceeding who is:

(1) an interested party; or

(2) related to an interested party, an actual party, the Judge for the proceeding by blood, marriage, adoption or related by a social tie that could be reasonable interpreted as a conflict of interest.

(c) An advocate may be recognized as certified by the Court if he or she has completed child welfare advocacy training provided by the Court.

### **708.9 Order of Preferences for Placement of a Child in Need of Protection or Services**

708.9-1. The following order of preferences for placement shall be followed when it is necessary to place a child outside of the home under this law:

(a) A member of the child's immediate or extended family;

(b) A family clan member;

(c) A member of the Oneida Nation;

(d) Descendants of the Oneida Nation;

(e) A member of another federally recognized tribe;

(f) Fictive kin within the Oneida Nation community;

(g) Fictive kin outside the Oneida Nation community; or

(h) Any other person or persons not listed above.

### **708.10. Taking a Child into Custody**

708.10-1. A child may be taken into custody without a Court order by an Indian Child Welfare Worker or law enforcement officer if there are reasonable grounds to believe:

(a) A warrant for the child's apprehension has been issued by the Court, state court, or another court of competent jurisdiction to take the child into custody;

(b) The child has run away from his or her parents, guardian or legal or custodian;

(c) The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary; and/or

(d) The child has violated the conditions of an order issued pursuant to this law.

708.10-2. The Court may enter an order directing that a child be taken into custody upon a showing satisfactory to the judge that the welfare of the child demands that the child be immediately removed from his or her present custody.

708.10-3. A person taking the child into custody, under this section, shall immediately attempt to notify the parent(s), guardian(s), or legal custodian(s) of the child by the most practical means. Attempts to satisfy notification shall continue until either the parent(s), guardian(s), or legal

custodian(s) of the child is notified, or the child is delivered to an Indian Child Welfare Worker, whichever occurs first. If the child is delivered to the Indian Child Welfare Worker before the parent(s), guardian(s), or legal custodian(s) is notified, the Indian Child Welfare Worker, or another person at his or her direction, shall continue the attempt to notify until the parent(s), guardian(s), or legal custodian(s) of the child is notified.

708.10-4. A person taking a child into custody shall make every effort to release the child immediately to the child's parent(s), guardian(s), or legal custodian(s), so long as it is in the child's best interest.

708.10-5. A child may be held in custody if the Indian Child Welfare Worker determines the child is within the jurisdiction of the Court and probable cause exists to believe one of the following if the child is not held in custody:

- (a) He or she will cause injury to himself or herself or be subject to injury by others;
- (b) He or she will be subject to injury by others, based on a determination that if another child in the home is not held that child will be subject to injury by others;
- (c) The parent, guardian or legal custodian of the child or other responsible adult is neglecting, refusing, unable or unavailable to provide adequate supervision and care and that services to ensure the child's safety and well-being are not available or would be inadequate;
- (d) The child meets the criteria specified in section 708.10-5(c), based on a determination that another child in the home meets those criteria; or
- (e) The child will run away or be taken away so as to be unavailable for proceedings of the Court.

708.10-6. A child held in custody may be held in any of the following places:

- (a) The home of a relative, except that a child may not be held in the home of a relative that has been convicted of the first-degree intentional homicide or the 2nd-degree intentional homicide of a parent of the child, and the conviction has not been pardoned, forgiven, reversed, set aside or vacated, unless the person making the custody decision determines by clear and convincing evidence that the placement would be in the best interests of the child. The person making the custody decision shall consider the wishes of the child in making that determination;
- (b) A foster home;
- (c) A licensed group home;
- (d) A non-secure facility operated by a licensed child welfare agency;
- (e) A licensed private or public shelter care facility; or
- (f) The home of a person not a relative, if the placement does not exceed thirty (30) days, though the placement may be extended for an additional thirty (30) days by the Indian Child Welfare Worker, and if the person has not had a child care license refused, revoked, or suspended within the last two (2) years.

708.10-7. If a child is held in custody, the Indian Child Welfare Worker shall notify the child's parent(s), guardian(s), or legal custodian(s) of the reasons for holding the child and of the child's whereabouts except when the Indian Child Welfare Worker believes that notice would present imminent danger to the child. If the parent, guardian, or legal custodian is not immediately available, the Indian Child Welfare Worker or another person designated by the worker shall provide notice as soon as possible.

708.10-8. The Indian Child Welfare Worker shall also notify the parent, guardian, or legal custodian of the following:

- (a) the time and place of the emergency custody hearing;
- (b) the nature and possible consequences of that hearing;
- (c) the right to present and cross-examine witnesses at the hearing; and
- (d) the right to retain their own counsel for the hearing.

708.10-9. When the child is age twelve (12) or older, the Indian Child Welfare Worker shall notify the child of the same information about the emergency custody hearing as the parent, guardian, or legal custodian.

#### **708.11. Hearings (General)**

708.11-1. If the Court finds that it is in the best interest of the child, the Court may exclude the child from participating in a hearing conducted in accordance with this law.

708.11-2. The Oneida Judiciary Rules of Evidence are not binding at emergency custody hearings, dispositional hearings, or a hearing about changes in placement, revision of dispositional orders, extension of dispositional orders, or termination of guardianship orders. At those hearings, the Court shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant, or unduly repetitious testimony. Hearsay evidence may be admitted if it has demonstrable circumstantial guarantees of trustworthiness. The Court shall give effect to the rules of privilege recognized by laws of the Nation. The Court shall apply the basic principles of relevancy, materiality, and probative value to proof of all questions of fact.

708.11-3. If an alleged father appears at a hearing under this law, the Court may refer the matter to the Oneida Nation Child Support Agency to adjudicate paternity. While paternity is being established, the Court shall enter an order finding good cause to suspend the time limits established under this law.

#### **708.12. Emergency Custody Hearing**

708.12-1. If a child who has been taken into custody under section 708.10-5 is not released, a hearing to determine whether the child shall continue to be held in custody under the criteria of section 708.10-5(a)-(e) shall be conducted by Court as soon as possible but no later than seventy-two (72) hours of the time the decision to hold the child was made, excluding Saturdays, Sundays, and holidays. By the time of the hearing, a petition for a child in need of protection or services under section 708.13 shall be filed unless the Department seeks and receives an extension pursuant to 708.12-2. The child shall be released from custody if a hearing is not held within the specified timelines.

708.12-2. If no petition has been filed by the time of the hearing, a child may be held in custody with approval of the Court for an additional seventy-two (72) hours from the time of the hearing, excluding Saturdays, Sundays, and holidays, only if, as a result of the facts brought forth at the hearing, the Court determines that probable cause exists to believe any of the following:

- (a) That additional time is required to determine whether the filing of a petition initiating proceedings under this law is necessary;
- (b) That the child is an imminent danger to himself or herself or to others; or
- (c) The parent, guardian, or legal custodian of the child or other responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care.

708.12-3. The Court may grant a one-time extension under section 708.12-2 for a petition. In the event a petition is not filed within the extension period, the Court shall order the child's immediate release from custody.



708.12-4. Prior to the start of the hearing, a copy of the petition shall be given to the parent, guardian, or legal custodian if present, and to the child if he or she is twelve (12) years of age or older.

708.12-5. Prior to the start of the hearing, the Court shall inform the parent, guardian, or legal custodian of the following

- (a) allegations that have been made or may be made;
- (b) the nature and possible consequences of the hearing and possible future hearings;
- (c) the right to present, confront, and cross-examine witnesses; and
- (d) the right to counsel at his or her own expense.

708.12-6. An order to hold a child in custody may be re-heard if, in the Court's discretion, good cause is found, whether or not counsel was present.

708.12-7. If present at the hearing, the parent shall be requested to provide the names and other identifying information of three (3) relatives of the child or other individuals eighteen (18) years of age or older whose homes the parent requests the Court to consider as placements for the child. If the parent does not provide this information at the hearing, the Department shall permit the parent to provide the information at a later date.

708.12-8. All orders to hold a child in custody shall be in writing and shall include all of the following:

- (a) A finding that continued placement of the child in his or her home would be contrary to the welfare of the child;
- (b) A finding as to whether the person who took the child into custody and the Department have made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns;
- (c) A finding as to whether the person who took the child into custody and the Department have made reasonable efforts to make it possible for the child to return safely home; and
- (d) If the child has one (1) or more siblings, who have also been removed from the home, a finding as to whether the Department has made reasonable efforts to place the child in a placement that enables the sibling group to remain together, unless the Court determines that a joint placement would be contrary to the safety or well-being of the child or any of those siblings, in which case the Court shall order the Department make reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the Court determines that such visitation or interaction would be contrary to the safety or well-being of the child or any of those siblings.

708.12-9. An order to hold a child in custody remains in effect until a dispositional order is granted, the petition is withdrawn or dismissed, or the order is modified or terminated by further order of the Court.

### **708.13. Petition for a Child in Need of Protection or Services**

708.13-1. The Oneida Law Office or the Department shall initiate proceedings under this section by filing a petition with the Court, signed by a person who has knowledge of the facts alleged or is informed of them and believes them to be true.

708.13-2. The petition shall include the following:

- (a) The name, birth date, address, and tribal affiliation of the child;

(b) The names, birth dates, addresses, and tribal affiliation of the child's parent, guardian, legal custodian or spouse, if any; or if no such person can be identified, the name and address of the nearest relative;

(c) Whether the child is in custody, and, if so, the place where the child is being held and the time he or she was taken into custody unless there is reasonable cause to believe that such disclosure would result in imminent danger to the child or custodian;

(d) A Uniform Child Custody Jurisdiction and Enforcement Act affidavit;

(e) A plain and concise statement of facts upon which the allegations are based, including the dates, times, and location at which the alleged acts occurred. If the child is being held in custody outside his or her home, the statement shall include information showing that continued placement of the child in the home would be contrary to the welfare of the child and the efforts that were made to prevent the removal of the child, while assuring that the child's health, welfare, and safety are the paramount concerns; and

(f) Any other information as deemed necessary by the Court.

708.13-3. The petition shall state if any of the facts required for a petition are not known or cannot be ascertained by the petitioner.

708.13-4. A petition may be amended at any time at the discretion of the Court.

#### **708.14. Notice of Petition**

708.14-1. Petitions alleging that a child is in need of protection or services may be given to the parties directly by the Oneida Law Office attorney or the Indian Child Welfare Worker or served on the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

708.14-2. Petitions for termination of parental rights, guardianship, and adoption shall be served on all other parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

708.14-3. All parties shall be notified of all subsequent hearings under this code by first-class mail to the recently verified last-known address of the party with the purpose of providing the parties an opportunity to be heard.

#### **708.15. Discovery and Records**

708.15-1. Upon written request, the parties and their counsel shall have the right to inspect, copy or photograph social, psychiatric, psychological, medical, and school reports, and records concerning the child including reports of preliminary inquiries, predisposition studies and supervision records relating to the child which are in the possession of the Oneida Law Office or the Department that pertain to any case under this code.

708.15-2. If a request for discovery is refused, the person may submit an application to the Court requesting an order granting discovery. Motions for discovery shall certify that a request for discovery has been made and refused.

708.15-3. If the discovery violates a privileged communication or a work product rule, the Court may deny, in whole or part, otherwise limit or set conditions on the discovery authorized.

708.15-4. The identity of the reporter, who is the individual that initiated the investigation by contacting the Department, shall be redacted in all documents that are made available to the parties.

708.15-5. In addition to the discovery procedures permitted under this code, the discovery procedures permitted under the Oneida Judiciary Rules of Civil Procedure shall apply in all proceedings under this code.

**708.16. Plea Hearing for a Child in Need of Protection or Services**

708.16-1. A plea hearing shall take place on a date which allows reasonable time for the parties to prepare but is within forty-five (45) days after the filing of a petition, unless the Court enters an order finding good cause to go outside of the time limits.

708.16-2. If a petition is not contested, the Court shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than forty-five (45) days after the plea hearing, unless the Court enters an order finding good cause to go outside the time limits. If all the parties agree, the Court may proceed immediately with the dispositional hearing.

708.16-3. If the petition is contested, the Court shall set a date for the fact-finding hearing which allows reasonable time for the parties to prepare but is no more than sixty (60) days after the plea hearing, unless the Court enters an order finding good cause to go outside the time limits.

708.16-4. Before accepting an admission or plea of no contest of the alleged facts in a petition, the Court shall:

- (a) Address the parties present and determine that the plea or admission is made voluntarily with understanding of the nature of the acts alleged in the petition and the potential dispositions;
- (b) Establish whether any promises or threats were made to elicit the plea or admission; and
- (c) Make inquiries that establish a factual basis for the plea or admission.

**708.17. Fact-finding Hearing for a Child in Need of Protection or Services**

708.17-1. The Court shall make written findings of fact and conclusions of law relating to the allegations of a petition and whether the allegations were proved by clear and convincing evidence.

708.17-2. At the close of the fact-finding hearing, the Court shall set a date for the dispositional hearing which allows a reasonable time for the parties to prepare but is no more than forty-five (45) days after the fact-finding hearing, unless the Court enters an order finding good cause to go outside the time limits. If all the parties agree, the Court may proceed immediately with the dispositional hearing.

**708.18. Department's Disposition Report for a Child in Need of Protection or Services**

708.18-1. Before the dispositional hearing, the Department shall submit a written report to the Court, with a copy to the parties at least seven (7) calendar days prior to the hearing, which shall contain all of the following:

- (a) The social history of the child and family;
- (b) A specific plan for the care of and assistance to the child and family calculated to resolve the problems presented in the petition;
- (c) A detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the child and family under the proposed plan; and
- (d) If an out-of-home placement is being recommended, specific reasons for recommending that placement.

708.18-2. If out-of-home placement is recommended, the Department shall submit a written report recommending placement of a child in a foster or group home, in the home of a relative other than a parent, or in the home of a guardian shall include all of the following:

- (a) A recommendation as to whether the Court should establish a child support obligation for the parents;

(b) Specific information showing that continued placement of the child in his or her home would be contrary to the welfare of the child and specific information showing that the Department has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health, welfare, and safety are the paramount concerns;

(c) If the child has one (1) or more siblings who have been removed from the home or for whom an out-of-home placement is recommended, specific information showing that Department has made reasonable efforts to place the child in a placement that enables the sibling group to remain together, unless the Department recommends that the child and his or her siblings not be placed in a joint placement, in which case the report shall include specific information showing that a joint placement would be contrary to the health, welfare, or safety of the child or any of those siblings; and

(d) If a recommendation is made that the child and his or her siblings not be placed in a joint placement, specific information showing that the Department has made reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the Department recommends that such visitation or interaction not be provided, in which case the report shall include specific information showing that such visitation or interaction would be contrary to the health, welfare, or safety of the child or any of those siblings;

708.18-3. The Department may request the Court to withhold identifying information from the child's parent or guardian if there are reasonable grounds to believe that disclosure would result in imminent danger to the child or to the foster parent.

#### **708.19. Dispositional Hearing for a Child in Need of Protection or Services**

708.19-1. At a dispositional hearing, any party may present evidence relevant to the issue of disposition, including expert testimony, and may make alternative dispositional recommendations.

708.19-2. During a dispositional hearing, if the Department is recommending placement of the child in a foster or group home, in the home of a relative other than a parent, or in the home of a guardian, the Department shall present as evidence specific information showing all of the following:

(a) That continued placement of the child in his or her home would be contrary to the welfare of the child;

(b) That the Department has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns;

(c) If the child has one (1) or more siblings who have been removed from the home or for whom an out-of-home placement is recommended, that the Department has made reasonable efforts to place the child in a placement that enables the sibling group to remain together, unless the Department recommends that the child and his or her siblings not be placed in a joint placement, in which case the Department shall present as evidence specific information showing that a joint placement would be contrary to the safety or well-being of the child or any of those siblings; and

(d) If a recommendation is made that the child and his or her siblings not be placed in a joint placement, that the Department has made reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the

Department recommends that such visitation or interaction not be provided, in which case the Department shall present as evidence specific information showing that such visitation or interaction would be contrary to the health, welfare, or safety of the child or any of those siblings.

708.19-3. During a dispositional hearing, a parent of the child may present evidence relevant to the amount of child support to be paid by either or both parents.

708.19-4. The Court's dispositional order shall employ those means necessary to maintain and protect the well-being of the child which are the least restrictive of the rights of the parent and child and which assure the care, treatment or rehabilitation of the child and the family consistent with the protection of the public. When appropriate, and, in cases of child abuse or neglect when it is consistent with the best interest of the child in terms of physical safety and physical health, the family unit shall be preserved and there shall be a policy of transferring custody of a child from the parent only when there is no less drastic alternative. If there is no less drastic alternative for a child than transferring custody from the parent, the Court shall consider transferring custody to a relative whenever possible.

708.19-5. The Court's dispositional order shall be in writing and shall contain:

(a) The specific services to be provided to the child and family and if custody of the child is to be transferred to effect the treatment plan, the identity of the legal custodian.;

(b) If the child is placed outside the home, where the child will be placed. If the Court finds that disclosing the identifying information of the foster parent would result in imminent danger to the child or the foster parent, the Court may order the name and address withheld from the parent or guardian;

(c) The date of the expiration of the court's order;

(1) A dispositional order made before the child reaches eighteen (18) years of age that places or continues the placement of the child in his or her home shall terminate one (1) year after the date on which the order is granted unless the Court specifies a shorter period of time or the Court terminates the order sooner.

(2) A dispositional made before the child reaches eighteen (18) years of age that places or continues the placement of the child outside of the home shall terminate on the latest of the following dates, unless the Court specifies a shorter period or the Court terminates the order sooner:

(A) The date on which the child attains eighteen (18) years of age;

(B) The date that is one (1) year after the date on which the order is granted; and

(C) The date on which the child is granted a high school or high school equivalency diploma or the date on which the child reaches nineteen (19) years of age, whichever occurs first, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching nineteen (19) years of age.

(d) If the child is placed outside the home of their parent, guardian, or legal custodian, a designation of the amount of child support, if any, to be paid;

(e) If the child is placed outside the home, a finding that continued placement of the child in his or her home would be contrary to the welfare of the child and a finding as to whether the Department has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health, welfare, and safety are the

paramount concerns. The Court shall make the findings specified in this subdivision on a case-by-case basis based on circumstances specific to the child;

(f) If the child is placed outside the home under the supervision of the Department, an order ordering the child into the placement and care responsibility of the Department and assigning the Department primary responsibility for providing services to the child and family;

(g) If the child is placed outside the home and if the child has one (1) or more siblings who have also been placed outside the home, a finding as to whether the Department has made reasonable efforts to place the child in a placement that enables the sibling group to remain together, unless the Court determines that a joint placement would be contrary to the safety, welfare, or well-being of the child or any of those siblings, in which case the Court shall order the Department to make reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the Court determines that such visitation or interaction would be contrary to the health, welfare, or safety of the child or any of those siblings;

(h) A statement of the conditions with which the parties are required to comply; and

(i) If the Court finds that it would be in the best interest of the child, the Court may set reasonable rules of parental visitation.

(1) If the Court denies a parent visitation, the Court shall enter conditions that shall be met by the parent in order for the parent to be granted visitation.

708.19-6. In a proceeding in which a child has been found to be in need of protection or services, the Court may order the child's parent, guardian or legal custodian to comply with any conditions determined by the Court to be necessary for the child's welfare. A dispositional order may include, but is not limited to, an order to participate in:

(a) Outpatient mental health treatment;

(b) Substance abuse treatment;

(c) Anger management;

(d) Individual or family counseling; and/or

(e) Parent training and education.

708.19-7. If in the hearing of a case of a child alleged to be in need of protection or services it appears that any person has been guilty of contributing to, encouraging, or tending to cause by any act or omission, such need for protection or services, the Court may make orders with respect to the conduct of such person in his or her relationship to the child.

708.19-8. If the Court finds that the parent was convicted of committing a crime against the life and bodily security of a child or a crime against a child, contained within Chapters 940 and 948 of the Wisconsin Statutes or another similar law in another jurisdiction, the Court may find that the Department is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home.

708.19-9. The Court shall provide a copy of the dispositional order to the child's parent, guardian, or legal custodian and the other parties to the action.

708.19-10. Whenever the Court orders a child to be placed outside his or her home or denies a parent visitation because the child is in need of protection or services, the Court shall orally inform the parent or parents who appear in Court of any grounds for termination of parental rights which may be applicable and of the conditions necessary for the child to be returned to the home or for the parent to be granted visitation. The Court shall also include this information in the written dispositional order provided to the parent or parents.

**708.20. Permanency Plans**

708.20-1. The Department shall prepare a written permanency plan anytime a child is placed outside the home pursuant to dispositional order that finds the child is in need of protection or services. The permanency plan shall include all of the following:

- (a) The name, birth date, address, and tribal affiliation of the child;
- (b) The names, birth dates, addresses, and tribal affiliation of the child's parent(s), guardian(s), and custodian(s);
- (c) The date on which the child was removed from the home;
- (d) A statement as to the availability of a safe and appropriate placement with an extended family member;
- (e) The goal(s) of the permanency plan which may include one or more of the following: reunification, adoption, guardianship, placement with a fit and willing relative, or long-term foster care;
- (f) Date by which it is likely the goal(s) of the permanency plan will likely be achieved;
- (g) A description of the services offered and any services provided in an effort to prevent removal of the child from the home or to return the child to the home, while assuring that the health, safety, and welfare of the child are the paramount concerns;
- (h) If the child has one or more siblings who have been removed from the home, a description of the efforts made to place the child in a placement that enables the sibling group to remain together. If a decision is made to not place the siblings together, a description of the efforts made to provide for frequent and ongoing visitation or other ongoing interaction between the child and siblings; and
- (i) Information about the child's education.

708.20-2. The Department shall file the initial permanency plan with the Court within sixty (60) days after the date the child was first removed from the home unless the child is returned to the home within that time period.

708.20-3. The Court shall hold a hearing to review the permanency plan no later than twelve (12) months after the date on which the child was first removed from the home and annually thereafter for as long as the child is placed outside the home and if found to be in need of protection or services.

(a) At least five (5) calendar days before the date of the hearing, the Department shall provide a copy of the updated permanency plan to the Court and the parties.

(b) All parties, including foster parent(s) shall have a right to be heard at the permanency plan hearing. Any party may submit written comments to the Court no less than three (3) calendar days prior to the hearing date.

708.20-4. After the hearing, the Court shall enter a written order addressing the following:

- (a) The continuing necessity for and the safety and appropriateness of the placement;
- (b) The compliance with the permanency plan by the Department and any other service providers, the child's parent(s), and the child;
- (c) Efforts taken to involve appropriate service providers and Department staff in meeting the special needs of the child and the child's parent(s);
- (d) The progress toward eliminating the causes for the child's placement outside the home and returning the child safely to the home or obtaining a permanent placement for the child;

- (e) The date by which it is likely that the child will be returned to the home or placed for adoption, with a guardian, with a fit and willing relative, or in some other permanent living arrangement;
- (f) Whether reasonable efforts were made by the Department to achieve the permanency plan goal(s);
- (g) Whether reasonable efforts were made by the Department to place the child in a placement that enables the sibling group to remain together or have frequent visitation or other ongoing interaction; and
- (h) The date of the next review hearing, if appropriate.

#### **708.21. Change in Placement**

708.21-1. The Department, the Oneida Law Office, or a party to the dispositional order may request a change in the placement of the child who is the subject of the dispositional order.

708.21-2. The request for a change in placement shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement.

708.21-3. If the proposed change in placement moves the child outside of his or her home, the request shall contain specific information showing that continued placement of the child in the home would be contrary to the health, welfare, and safety of the child and specific information showing that the Department has made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health, welfare, and safety are the paramount concerns.

708.21-4. The request for a change in placement shall be submitted to the Court. The Court may propose a change in placement on its own motion.

708.21-5. Written notice of the proposed change in placement shall be sent to all of the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

- (a) The Department shall schedule a hearing prior to placing the child outside of the home, unless emergency conditions that necessitate an immediate change in the placement of a child apply.

- (b) A hearing is not required when the child currently placed outside the home transfers to another out-of-home placement.

- (1) A party may request a hearing when the child is transferred to a different out-of-home placement by submitting a written request to the court within ten (10) calendar days of being served with the notice of the proposed change.

708.21-6. If a hearing is held, any party may present evidence relevant to the issue of the change in placement. In addition, the Court shall give a foster parent or other custodian a right to be heard at the hearing by permitting the foster parent or other custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of change in placement.

708.21-7. If emergency conditions necessitate an immediate change in the placement of a child, the Department may remove the child to a new placement, whether or not authorized by the existing dispositional order. Notice of the emergency change in placement shall be sent to the parties as soon as possible but no later than seventy-two (72) hours after the emergency change in placement excluding Saturdays, Sundays, and holidays. If the emergency conditions necessitate an immediate change in placement of a child placed in the home to a placement outside the home, the Department shall schedule the matter for a hearing as soon as possible but



no later than seventy-two (72) hours after the emergency change in placement is made, excluding Saturdays, Sundays, and holidays.

708.21-8. The parties may agree to a change in placement by signing a stipulation and filing it with the Court for approval.

708.21-9. No change in placement may extend the expiration date of the original dispositional order, except that if the change in placement is from a placement in the child's home to a placement outside the home the Court may extend the expiration date of the original dispositional order to the latest of the following dates, unless the Court specifies a shorter period:

(a) The date on which the child reaches eighteen (18) years of age;

(b) The date that is one (1) year after the date on which the change-in-placement order is granted; or

(c) The date on which the child is granted a high school or high school equivalency diploma or the date on which the child reaches nineteen (19) years of age, whichever occurs first, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching nineteen (19) years of age.

708.21-10. If the change in placement is from a placement outside the home to a placement in the child's home and if the expiration date of the original dispositional order is more than one (1) year after the date on which the change-in-placement order is granted, the Court shall shorten the expiration date of the original dispositional order to the date that is one (1) year after the date on which the change-in-placement order is granted or to an earlier date as specified by the Court.

#### **708.22. Revision of Dispositional Orders**

708.22-1. A party may request a revision in the dispositional order that does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent. The Court may also propose a revision on its own motion.

708.22-2. The request or Court proposal shall set forth in detail the nature of the proposed revision and what new information is available that affects the advisability of the Court's disposition. The request for revision shall be filed with the Court with notice provided by the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

708.22-3. The Court shall hold a hearing on the matter prior to any revision of the dispositional order if the request indicates that new information is available that affects the advisability of the Court's dispositional order, unless the parties file a signed stipulation and the Court approves.

708.22-4. If a hearing is held, any party may present evidence relevant to the issue of revision of the dispositional order. In addition, the Court shall give a foster parent or other custodian a right to be heard at the hearing by permitting the foster parent or other custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of revision.

#### **708.23. Extension of Dispositional Orders**

708.23-1. A party, or the Court on its own motion, may request an extension of a dispositional order. The request shall be filed with the Court with notice to the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

708.23-2. No order may be extended without a hearing, unless the parties file a signed stipulation and the Court approves.

708.23-3. Any party may present evidence relevant to the issue of extension. If the child is placed outside of his or her home, the person, agency, or department primarily responsible for providing services to the child shall present as evidence specific information showing that the person, agency, or department has made reasonable efforts to achieve the permanency goal of the child's permanency plan. In addition, the Court shall give a foster parent or other custodian a right to be heard at the hearing by permitting the foster parent or other custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension.

708.23-4. The Court shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the person, agency, or department primarily responsible for providing services to the child to achieve the permanency goal of the child's permanency plan.

708.23-5. If a request to extend a dispositional order is made prior to the termination of the order, but the Court is unable to conduct a hearing on the request prior to the termination date, the order shall remain in effect until such time as a extension hearing is conducted.

#### **708.24. Continuation of Dispositional Orders**

708.24-1. If a petition for termination of parental rights or guardianship is filed or an appeal from a termination of parental rights or guardianship judgment is filed during the year in which a child in need of protection or services dispositional order is in effect, the dispositional order shall remain in effect until all proceedings related to the appeal are concluded.

#### **708.25. Guardianship for Certain Children in Need of Protection or Services**

708.25-1. *Conditions for Guardianship.* The Court may appoint a guardian of the person or estate for a child if the Court finds all of the following:

(a) That the child has been found to be in need of protection or services under this Law and has been placed outside of his or her home pursuant to one or more court orders, or that the child has been found to be in need of protection or services and placement of the child in the home of a guardian under this section has been recommended by the Department at the dispositional hearing;

(b) That the person nominated as the guardian of the child is a person with whom the child has been placed or in whose home placement of the child is recommended by the Department and that it is likely that the child will continue to be placed with that person for an extended period of time or until the child attains the age of eighteen (18) years;

(c) That, if appointed, it is likely that the person would be willing and able to serve as the child's guardian for an extended period of time or until the child attains the age of eighteen (18) years;

(d) That it is not in the best interests of the child that a petition to terminate parental rights be filed with respect to the child;

(e) That the child's parent is neglecting, refusing or unable to carry out the duties of a guardian or, if the child has two (2) parents, both parents are neglecting, refusing or unable to carry out the duties of a guardian; and

(f) That the agency or department primarily responsible for providing services to the child and family under the Court order has made reasonable efforts to make it possible for the child to return to his or her home, while assuring that the child's health, welfare and safety are the paramount concerns, but that reunification of the child with the child's

parent(s) is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child or that the agency or department primarily responsible for providing services to the child under a court order has made reasonable efforts to prevent the removal of the child from his or her home, while assuring the child's health and safety, but that continued placement of the child in the home would be contrary to the welfare of the child.

708.25-2. Any of the following persons may file a petition for the appointment of a guardian for a child under this section:

- (a) The child or the child's guardian ad litem;
- (b) The child's parent;
- (c) The person with whom the child is placed or in whose home placement of the child is recommended by the Department;
- (d) The Department;
- (e) The Oneida Law Office; or
- (f) A licensed child welfare agency or department that has been awarded guardianship and/or custody or has been assigned primary responsibility for providing services to the child under a court order.

708.25-3. A proceeding for the appointment of a guardian for a child shall be initiated by a petition which shall include the following:

- (a) The name, birth date, address, and tribal affiliation of the child;
- (b) The names, birth dates, addresses, and tribal affiliation of the child's parents;
- (c) A copy of the order adjudicating the child to be in need of protection or services and the order placing the child outside of the parental home; and
- (d) A statement of the facts and circumstances which the petitioner alleges establish that the conditions specified in section 708.25-1(a)-(f) are met.

708.25-4. A plea hearing to determine whether any party wishes to contest a petition for guardianship shall take place no sooner than ten (10) days after the filing of the petition. At the hearing, the non-petitioning parties shall state whether they wish to contest the petition. Before accepting an admission or a plea of no contest to the allegations in the petition, the Court shall do all of the following:

- (a) Address the parties present and determine that the admission or plea is made voluntarily and with understanding of the nature of the facts alleged in the petition, the nature of the potential disposition and the nature of the legal consequences of that disposition;
- (b) Establish whether any promises or threats were made to elicit the admission or plea of no contest; and
- (c) Make inquiries to establish to the satisfaction of the Court that there is a factual basis for the admission or plea of no contest.

708.25-5. If the petition is not contested and if the Court accepts the admission or plea of no contest, the Court may immediately proceed to a dispositional hearing unless an adjournment is requested.

708.25-6. If the petition is contested or if the Court does not accept the admission or plea of no contest, the Court shall set a date for a fact-finding hearing which allows reasonable time for the parties to prepare but is not more than sixty (60) days after the plea hearing, unless the Court enters an order finding good cause to go outside the time limits.

(a) If the petition is contested, the Court shall order the Department to file with the Court a report containing as much information relating to the appointment of a guardian as is reasonably ascertainable, including an assessment of the conditions specified in section 708.25-1(a)-(f). The Department shall file its report with the Court prior to the fact-finding hearing and shall provide the parties with a copy of the report at least three (3) calendar days prior to the hearing.

708.25-7. The Court shall hold a fact-finding hearing on the petition at which any party may present evidence relevant to the issue of whether the conditions for guardianship have been met. If the Court, at the conclusion of the fact-finding hearing, finds by clear and convincing evidence that the conditions for guardianship specified in section 708.25-1(a)-(f) have been met, the Court shall immediately proceed to a dispositional hearing unless an adjournment is requested.

708.25-8. The Court shall hold a dispositional hearing at which any party may present evidence, including expert testimony, relevant to the disposition.

708.25-9. In determining the appropriate disposition under this section, the best interests of the child shall be the prevailing factor to be considered by the Court. In making a decision about the appropriate disposition, the Court shall consider any report submitted by the Department and shall consider, but not be limited to, all of the following:

(a) Whether the person would be a suitable guardian of the child;

(b) The willingness and ability of the person to serve as the child's guardian for an extended period of time or until the child reaches the age of eighteen (18) years; and

(c) The wishes of the child.

708.25-10. After receiving any evidence relating to the disposition, the Court shall enter one of the following dispositions and issue a written decision consistent the Oneida Judiciary Rules of Civil Procedure:

(a) A disposition dismissing the petition if the Court determines that appointment of the person as the child's guardian is not in the best interests of the child.

(b) A disposition ordering that the proposed guardian be appointed as the child's guardian if the Court determines that such an appointment is in the best interests of the child.

708.25-11. If the court appoints a guardian for the child, the court may dismiss the dispositional order finding that the child is in need of protection or services.

## **708.26. Revisions of Guardianship Order**

708.26-1. Any person authorized to file a guardianship petition may request a revision in a guardianship order or the Court may, on its own motion, propose such a revision.

708.26-2. The motion or Court proposal shall set forth in detail the nature of the proposed revision, shall allege facts sufficient to show that there has been a substantial change in circumstances since the last order affecting the guardianship was entered and that the proposed revision would be in the best interests of the child and shall allege any other information that affects the advisability of the Court's disposition.

(a) The Court may order the Department to file with the Court a report containing as much information relating to the revision of the guardianship as is reasonably ascertainable. The Department shall file its report with the Court prior to the hearing on the termination of guardianship and shall provide the parties with a copy of the report at least three (3) calendar days prior to the hearing.

708.26-3. The Court shall hold a hearing on the matter prior to any revision of the guardianship order if the motion or Court proposal indicates that new information is available which affects

the advisability of the Court's guardianship order, unless the parties file a written stipulation is approved by the Court.

#### **708.27. Termination of Guardianship**

708.27-1. A guardianship under this section shall continue until the child reaches the age of eighteen (18) or until terminated by the Court, whichever occurs earlier.

708.27-2. A parent of the child may request that a guardianship order be terminated. The request shall allege facts sufficient to show that there has been a substantial change in circumstances since the last order affecting the guardianship was entered, that the parent is willing and able to carry out the duties of a guardian and that the proposed termination of guardianship would be in the best interests of the child. The Court shall hold a hearing on the matter unless the parties file a written stipulation approved by the Court.

(a) The Court may order the Department to file with the Court a report containing as much information relating to the termination of the guardianship as is reasonably ascertainable, including a re-assessment of the conditions for guardianship specified in section 708.25-1(a)-(f). The Department shall file its report with the Court prior to the hearing on the termination of guardianship and shall provide the parties with a copy of the report at least three (3) calendar days prior to the hearing.

708.27-3. Any person authorized to file a petition under for guardianship may request that a guardian appointed be removed for cause or the Court may, on its own motion, propose such a removal. The request or Court proposal shall allege facts sufficient to show that the guardian is or has been neglecting, is or has been refusing or is or has been unable to discharge the guardian's trust and may allege facts relating to any other information that affects the advisability of the Court's disposition. The Court shall hold a hearing on the matter.

708.27-4. A guardian appointed under this chapter may resign at any time if the resignation is accepted by the Court.

#### **708.28. Termination of Parental Rights**

708.28-1. It is the philosophy of the Nation that a united and complete family unit is of the upmost value to the community and the individual family members, and that the parent-child relationship is of such vital importance that it should be terminated only as a last resort when all efforts have failed to avoid termination and it is in the best interests of the child concerned to proceed with termination of parental rights.

708.28-2. The termination of parental rights shall not adversely affect the child's rights and privileges as a member of the Nation, nor as a member of any tribe to which the child is entitled to membership, nor shall it affect the child's enrollment status with the child's tribe, nor shall it interfere with the child's cultural level and traditional and spiritual growth as a member of the Nation.

708.28-3. The Court may terminate a parent's rights on a voluntary or involuntary basis.

708.28-4. An order terminating parental rights permanently severs all legal rights and duties between the parent whose parental rights are terminated and the child and between the child and all persons whose relationship to the child is derived through that parent.

**708.29. Voluntary Termination of Parental Rights**

708.29-1. The Court may terminate the parental rights of a parent after the parent has given his or her consent. When such voluntary consent is given the Court may proceed immediately to a dispositional hearing.

708.29-2. The Court may accept a voluntary consent to termination of parental rights only if the parent appears personally at the hearing and gives his or her consent to the termination of his or her parental rights. The Court may accept the consent only after the judge has explained the effect of termination of parental rights and has questioned the parent, or has permitted an attorney who represents any of the parties to question the parent, and is satisfied that the consent is informed and voluntary. If the Court finds that it would be difficult or impossible for the parent to appear in person at the hearing, the Court may allow the parent to appear by telephone or live audiovisual means.

708.29-3. If in any proceeding to terminate parental rights voluntarily any party has reason to doubt the capacity of a parent to give informed and voluntary consent to the termination, he or she shall so inform the Court. The Court shall then inquire into the capacity of that parent in any appropriate way and shall make a finding as to whether or not the parent is capable of giving informed and voluntary consent to the termination. If in the Court's discretion a person is found incapable of knowingly and voluntarily consenting to the termination of their parental rights, the Court shall dismiss the voluntary proceedings without prejudice. That dismissal shall not preclude an involuntary termination of the parent's rights.

708.29-4. A parent who has executed a consent under this section may withdraw the consent for any reason at any time prior to the entry of a final order terminating parental rights.

708.29-5. Any consent given under this section prior to or within ten (10) calendar days after the birth of the child is not valid.

**708.30. Grounds for Involuntary Termination of Parental Rights**

708.30-1. Grounds for termination of parental rights shall be one of the following:

(a) *Abandonment.*

(1) Abandonment shall be established by proving any of the following:

(A) That the child has been left without provision for the child's care or support, the petitioner has investigated the circumstances surrounding the matter and for sixty (60) consecutive days the petitioner has been unable to find either parent;

(B) That the child has been left by the parent without provision for the child's care or support in a place or manner that exposes the child to substantial risk of great bodily harm or death;

(C) That a court of competent jurisdiction has found that a child has been abandoned under Wis. Stat. 48.13 (2) or under a law of any other state or a federal law that is comparable to the state law, that the child was abandoned when the child was under one (1) year of age or has found that the parent abandoned the child when the child was under one (1) year of age in violation of Wis. Stat. 948.20 or in violation of the law of any other state or federal law, if that violation would be a violation of abandonment of a child under Wis. Stat. 948.20 if committed in this state;

(D) That the child has been placed, or continued in a placement, outside the parent's home by a Court order containing the required notice and the parent has failed to visit or communicate with the child for a period of three (3) months or longer; or

(E) The child has been left by the parent with any person, the parent knows or could discover the whereabouts of the child and the parent has failed to visit or communicate with the child for a period of six (6) consecutive months or longer.

(2) Incidental contact between parent and child shall not preclude the Court from finding that the parent has failed to visit or communicate with the child. The time periods under sections 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E) shall not include any periods during which the parent has been prohibited by Court order from visiting or communicating with the child.

(3) Abandonment is not established under sections 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E) if the parent proves all of the following by clear and convincing evidence:

(A) That the parent had good cause for having failed to visit with the child throughout the time period specified in sections 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E), whichever is applicable.

(B) That the parent had good cause for having failed to communicate with the child throughout the time period specified in sections 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E), whichever is applicable.

(C) If the parent proves good cause under section 708.30-1(a)(3)(B), including good cause based on evidence that the child's age or condition would have rendered any communication with the child meaningless, that one of the following occurred:

i. The parent communicated about the child with the person or persons who had physical custody of the child during the time period specified in section 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E), whichever is applicable, or, if section 708.30-1(a)(1)(D) is applicable, with the agency or department responsible for the care of the child during the time period specified in section 708.30-1(a)(1)(D).

ii. The parent had good cause for having failed to communicate about the child with the person or persons who had physical custody of the child or the agency or department responsible for the care of the child throughout the time period specified in section 708.30-1(a)(1)(D) and 708.30-1(a)(1)(E), whichever is applicable.

(b) *Relinquishment*. Relinquishment shall be established by proving that a court of competent jurisdiction has found that the parent has relinquished custody of the child when the child was seventy-two (72) hours old or younger.

(c) *Continuing Need of Protection or Services*. Continuing need of protection or services shall be established by proving any of the following:

(1) That the child has been found to be in need of protection or services and placed, or continued in a placement, outside his or her home pursuant to one or more dispositional orders containing the notice required by section 708.19-8;

(2) That the agency or department responsible for the care of the child and the family or of the unborn child and expectant mother has made a reasonable effort to provide the services ordered by the Court;

(A) Reasonable effort means an earnest and conscientious effort to take good faith steps to provide the services ordered by the Court which takes into consideration the characteristics of the parent or child or of the expectant mother or child, the level of cooperation of the parent or expectant mother and other relevant circumstances of the case; and

(3) That the child has been outside the home for a cumulative total period of six (6) months or longer pursuant to such orders; and that the parent has failed to meet the conditions established for the safe return of the child to the home and there is a substantial likelihood that the parent will not meet these conditions within the nine (9) month period following the termination of parental rights fact-finding hearing.

(d) *Continuing Parental Disability.* Continuing parental disability shall be established by proving that:

(1) The parent is presently, and for a cumulative total period of at least two (2) years within the five (5) years immediately prior to the filing of the petition has been, an inpatient at one or more hospitals as defined in either the Nation's laws or state law;

(2) The condition of the parent is likely to continue indefinitely; and

(3) The child is not being provided with adequate care by a relative who has legal custody of the child, or by a parent or a guardian.

(e) *Continuing Denial of Periods of Physical Placement or Visitation.* Continuing denial of periods of physical placement or visitation shall be established by proving all of the following:

(1) The parent has been denied periods of physical placement by Court order in an action affecting the family or has been denied visitation under a dispositional order containing the notice required by section 708.19-8, Wis. Stat. 48.356 (2), or Wis. Stat. 938.356 (2); and

(2) A Court order has denied the parent periods of physical placement or visitation for at least one (1) year.

(f) *Child Abuse.* Child abuse shall be established by proving that the parent has committed child abuse of the child who is the subject of the petition and proving either of the following:

(1) That the parent has caused death or injury to a child resulting in a felony conviction; or

(2) That a child has previously been removed from the parent's home pursuant to a dispositional order after an adjudication that the child is in need of protection or services.

(g) *Failure to Assume Parental Responsibility.* Failure to assume parental responsibility shall be established by proving that the parent or the person(s) who may be the parent of the child have not had a substantial parental relationship with the child.

(1) In evaluating whether the person has had a substantial parental relationship with the child, the Court may consider such factors, including, but not limited to, whether the person has expressed concern for or interest in the support, care or



well-being of the child, whether the person has neglected or refused to provide care or support for the child and whether, with respect to a person who is or may be the father of the child, the person has expressed concern for or interest in the support, care or well-being of the mother during her pregnancy.

(h) *Incestuous Parenthood.* Incestuous parenthood shall be established by proving that the person whose parental rights are sought to be terminated is also related, either by blood or adoption, to the child's other parent in a degree of kinship closer than 2nd cousin.

(i) *Homicide or Solicitation to Commit Homicide of a Parent.* Homicide or solicitation to commit homicide of a parent, which shall be established by proving that a parent of the child has been a victim of first-degree intentional homicide, first-degree reckless homicide or 2nd-degree intentional homicide or a crime under federal law or the law of any other state that is comparable to any of those crimes, or has been the intended victim of a solicitation to commit first-degree intentional homicide or a crime under federal law or the law of any other state that is comparable to that crime, and that the person whose parental rights are sought to be terminated has been convicted of that intentional or reckless homicide, solicitation or crime as evidenced by a final judgment of conviction.

(j) *Parenthood as a Result of Sexual Assault.*

(1) Parenthood as a result of sexual assault shall be established by proving that the child was conceived as a result of one of the following:

(A) First degree sexual assault [under Wis. Stats. 940.225(1)];

(B) Second degree sexual assault [under Wis. Stat. 940.225 (2)];

(C) Third degree sexual assault [under Wis. Stat. 940.225(3)];

(D) First degree sexual assault of a child [under Wis. Stat. 948.02(1)];

(E) Second degree sexual assault of a child [under Wis. Stat. 948.02 (2)];

(F) Engaging in repeated acts of sexual assault of the same child [under Wis. Stat. 948.025]; or

(G) Sexual assault of a child placed in substitute care [under Wis. Stat. 948.085].

(2) Conception as a result of sexual assault may be proved by a final judgment of conviction or other evidence produced at a termination of parental rights fact-finding hearing indicating that the person who may be the parent of the child committed, during a possible time of conception, a sexual assault as specified in this section against the other parent of the child.

(3) If the conviction or other evidence indicates that the child was conceived as a result of a sexual assault in violation of Wis. Stat. 948.02 (1) or (2) or 948.085, the parent of the child may be heard on his or her desire for the termination of the other parent's parental rights.

(k) *Commission of a Felony Against a Child.*

(1) Commission of a serious felony against the child, shall be established by proving that the child was the victim of a serious felony and parent was convicted of that serious felony.

(2) Commission of a violation of trafficking of a child under Wis. Stat. 948.051 involving any child or a violation of the law of any other state or federal law, if that violation would be a violation of Wis. Stat. 948.051 involving any child if committed in this state.

(3) In this subsection, "serious felony" means any of the following:

(A) The commission of, the aiding or abetting of, or the solicitation, conspiracy or attempt to commit, a violation of any of the following:

(i) First degree intentional homicide [under Wis. Stat. 940.01];

(ii) First degree reckless homicide [under Wis. Stat. 940.02];

(iii) Felony murder [under Wis. Stat. 940.03];

(iv) Second-degree intentional homicide [under Wis. Stat. 940.05]; or

(v) A violation of the law of any other state or federal law, if that violation would be a violation of the above mentioned felonies if committed in Wisconsin.

(B) The commission of a violation of any of the following:

(i) Battery, substantial battery, aggravated battery [under Wis. Stat. 940.19 (3), 1708 stats., or Wis. Stats. 940.19 (2), (4) or (5)];

(ii) Sexual assault [under Wis. Stat. 940.225 (1) or (2)];

(iii) Sexual assault of a child [under Wis. Stat. 948.02 (1) or (2)];

(iv) Engaging in repeated acts of sexual assault of the same child [under Wis. Stat. 948.025];

(v) Physical abuse of a child [under Wis. Stats. 948.03 (2) (a), (3) (a), or (5) (a) 1., 2., or 3.];

(vi) Sexual exploration of a child [under Wis. Stat. 948.05];

(vii) Trafficking of a child [under Wis. Stat. 948.051];

(viii) Incest with a child [under Wis. Stat. 948.06];

(ix) Soliciting a child for prostitution [under Wis. Stat. 948.08];

(x), Human trafficking [under Wis. Stat. 940.302 (2) if Wis. Stat. 940.302 (2) (a) 1. b. applies]; or

(xi) A violation of the law of any other state or federal law, if that violation would be a violation listed under the above listed felonies if committed in Wisconsin.

(C) The commission of a violation of neglecting a child under Wis. Stat. 948.21 or a violation of the law of any other state or federal law, if that violation would be a violation of Wis. Stat. 948.21 if committed in this state, that resulted in the death of the victim.

(1) *Prior Involuntary Termination of Parental Rights of Another Child.* Prior involuntary termination of parental rights to another child shall be established by proving all of the following:

(1) That the child who is the subject of the petition is in need of protection or services under section 708.4-2(b), (d), or (k); or that the child who is the subject of the petition was born after the filing of a petition under this subsection whose subject is a sibling of the child; and

(2) That, within three (3) years prior to the date the Court determined the child to be in need of protection or services as specified in section 708.30-1 (1) (1) or, in the case of a child born after the filing of a petition as specified in section 708.30-1 (1) (1), within three (3) years prior to the date of birth of the child, a Court has ordered the termination of parental rights with respect to another child of the person whose parental rights are sought to be terminated on one or more of the grounds specified in this section.

**708.31. Petition for Termination of Parental Rights**

708.31-1. A petition for termination of parental rights shall be filed by the Oneida Law Office, the Department, or the child's parent in the case of a step-parent adoption.

708.31-2. A petition for the termination of parental rights shall be filed when the child has been placed outside of his or her home for fifteen (15) of the most recent twenty-two (22) months unless one of the following applies:

(a) The child is being cared for by a fit and willing relative of the child.

(b) The child's permanency plan indicates and provides documentation that termination of parental rights to the child is not in the best interests of the child.

(c) The agency or department primarily responsible for providing services to the family under a dispositional order, if required to make reasonable efforts to make it possible for the child to return safely to his or her home, has not provided to the family of the child, consistent with the time period in the child's permanency plan, the services necessary for the safe return of the child to his or her home.

(d) Grounds for an involuntary termination of parental rights do not exist.

708.31-3. A petition for the termination of parental rights shall include the following information:

(a) The name, birth date, address, and tribal affiliation of the child;

(b) The names, birth dates, addresses, and tribal affiliation of the child's parents;

(c) One of the following:

(1) A statement that consent will be given to termination of parental rights as provided in section 708.29;

(2) A statement of the grounds for involuntary termination of parental rights under section 708.30 and a statement of the facts and circumstances which the petitioner alleges establish these grounds; and

(d) A Uniform Child Custody Jurisdiction and Enforcement Act affidavit.

708.31-4. If the petition includes a statement of the grounds for involuntary termination of parental rights, the petitioner may, at the time the petition is filed, also petition the Court for a temporary order and an injunction prohibiting the person whose parental rights are sought to be terminated from visiting or contacting the child who is the subject of the petition. Any petition under this section shall allege facts sufficient to show that prohibiting visitation or contact would be in the best interests of the child.

(a) The Court may grant an injunction prohibiting the respondent from visiting or contacting the child if the Court determines that the prohibition would be in the best interests of the child. An injunction under this subsection is effective according to its terms but may not remain in effect beyond the date the Court dismisses the petition for termination of parental rights or issues an order terminating parental rights.

708.31-5. The petitioner shall ensure the summons and petition are served upon the following persons pursuant to the Oneida Judiciary Rules of Civil Procedure:

(a) The parent(s) of the child, including an alleged father if paternity has not been established;

(b) The child's foster parents, if applicable. If the address has been marked confidential by the Court, the Court shall send a copy of the summons and petition to the foster home via first-class U.S. mail; and

(c) The Oneida Law Office, if the petition is filed by anyone other than the Oneida Law Office or the Department.

### **708.32. Initial Hearing on the Termination of Parental Rights Petition**

708.32-1. The initial hearing on the petition to terminate parental rights shall be held within forty-five (45) days after the petition is filed. At the hearing the Court shall determine whether any party wishes to contest the petition and inform the parties of their rights.

708.32-2. If the petition is contested, the Court shall set a date for a fact-finding hearing to be held within sixty (60) days after the hearing on the petition, unless the Court enters an order finding good cause to go outside the time limits.

708.32-3. If the petition is not contested, the Court shall hear testimony in support of the allegations in the petition and may proceed immediately with a dispositional hearing. Before accepting an admission of the alleged facts in a petition, the Court shall:

(a) Address the parties present and determine that the admission is made voluntarily with understanding of the nature of the acts alleged in the petition and the potential dispositions;

(b) Establish whether any promises or threats were made to elicit an admission; and

(c) Make such inquiries to establish a factual basis for the admission.

708.32-4. If paternity has not been established and an alleged father appears at the initial hearing, the Court may delay the termination of parental rights proceeding to examine the issue of paternity. While the paternity action is pending, the Court shall enter an order finding good cause to suspend the time limits established under this law.

### **708.33. Fact Finding Hearing for a Termination of Parental Rights**

708.33-1. The fact-finding hearing is a hearing conducted by the Court to determine whether there is clear and convincing evidence to establish that grounds exist for the termination of parental rights.

708.33-2. The fact-finding hearing shall be conducted according to the Oneida Judiciary Rules of Civil Procedure except that the Court may exclude the child from the hearing.

708.33-3. If grounds for the termination of parental rights are found by the Court, the Court shall find the parent(s) unfit. A finding of unfitness shall not prevent a dismissal of a termination of parental rights petition. Unless the parties agree to proceed immediately with the dispositional hearing and the Court accepts, the Court shall set a date for a dispositional hearing no later than forty-five (45) days after the fact-finding hearing, unless the Court enters an order finding good cause to go outside the time limits.

### **708.34. Department's Termination of Parental Rights Report**

708.34-1. In any case that the Department is a party, the Department shall submit a written report to the Court prior to any dispositional hearing, with a copy to the parties, which shall contain all of the following:

(a) The social history of the child and family, including any relevant medical conditions;

(b) A statement of the facts supporting the need for termination of parental rights;

(c) If the child has been previously adjudicated to be in need of protection or services, a statement of the steps the Department has taken to remedy the conditions responsible for Court intervention and the parent's response to and cooperation with these services. If the child has been removed from the home, the report shall also include a statement of the

reasons why the child cannot be returned safely to the family and the steps the Department has taken to effect this return;

(d) A statement applying the standards and factors identified in sections 708.35-2 and 708.35-3 regarding the case before the Court; and

(e) If the report recommends that the parental rights of both of the child's parents or the child's only living or known parent are to be terminated, the report shall contain a statement of the likelihood that the child will be adopted. This statement shall include a presentation of the factors that might prevent adoption, those that may facilitate adoption, and the agency or department that would be responsible for accomplishing the adoption.

(1) If the Department determines that it is unlikely that the child will be adopted, or if adoption would not be in the best interests of the child, the report shall include a plan for placing the child in a permanent family setting. The plan shall include a recommendation as to the agency or department to be named guardian of the child or a recommendation that a specific person be appointed as the guardian of the child.

708.34-2. The Court may order a report as specified under this section to be prepared by the Department in those cases where the Department is not a party.

### **708.35. Standards and Factors**

708.35-1. In making a decision about the appropriate disposition for termination of parental rights, the Court shall consider the standard and factors enumerated in this section and any report submitted by the Department.

708.35-2. The best interests of the child shall be the prevailing standard considered by the Court in determining the disposition of all termination of parental rights proceedings.

708.35-3. In considering the best interests of the child the Court shall consider, but not be limited to, the following factors:

(a) The likelihood of the child's adoption after termination;

(b) Whether the child will be raised in an environment that is respectful of the child's race(s), culture(s), and heritage(s);

(c) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home;

(d) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships;

(e) The wishes of the child;

(f) The duration of the separation of the parent from the child; and

(g) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

### **708.36. Dispositions for Termination of Parental Rights**

708.36-1. Any party may present evidence relevant to the issue of disposition, including expert testimony, and may make alternative dispositional recommendations to the Court. After receiving any evidence related to the disposition, the Court shall enter a disposition and issue a written decision consistent with the Oneida Judiciary Rules of Civil Procedure

(a) The Court shall give the foster parent or other custodian a right to be heard at the dispositional hearing by permitting the foster parent or other custodian to make a written

or oral statement during the dispositional hearing, or to submit a written statement prior to disposition, relevant to the issue of disposition.

708.36-2. The Court shall enter one of the following dispositions:

(a) The Court may dismiss the petition if it finds the evidence does not warrant the termination of parental rights or if the Court finds that a parent is attempting to voluntarily terminate their parental rights for the sole purpose of avoiding a child support obligation; or

(b) The Court may enter an order terminating the parental rights of one or both parents;

708.36-3. If the rights of both parents, or of the only living parent, are terminated and if a guardian has not been appointed, the Court shall do one of the following:

(a) Transfer guardianship and custody of the child pending adoptive placement to:

(1) A tribal or county department authorized to accept guardianship;

(2) A child welfare agency licensed to accept guardianship;

(3) The State of Wisconsin upon written confirmation from the State that they are willing to accept guardianship;

(4) A relative with whom the child resides, if the relative has filed a petition to adopt the child or if the relative is a kinship care relative or is receiving payments for providing care and maintenance for the child; or

(5) An individual who has been appointed guardian of the child by a court of a competent jurisdiction.

(b) Transfer guardianship and custody of the child to a tribal or county department authorized to accept guardianship for placement of the child for adoption by the child's foster parent, if the tribal or county department has agreed to accept guardianship and custody of the child.

(c) Appoint a guardian and transfer guardianship and custody of the child to the guardian.

708.36-4. If the Court terminates parental rights, the Department, or the Court if the Department is not a party to the action, shall forward the following information to the State of Wisconsin:

(a) The name, date of birth, and tribal affiliation of the child whose birth parent's rights have been terminated;

(b) The names and current addresses of the child's birth parents, guardian and legal custodian; and

(c) Any medical or genetic information received by the Department.

708.36-5. If an order is entered to terminate a parent's rights, the Court may orally inform the parent(s) who appear in Court of the ground for termination of parental rights specified and shall include the same information in the written order.

708.36-6. The written Court order shall include the following:

(a) If the Court dismisses the petition, the order shall contain the reasons for dismissal.

(b) If the disposition is for the termination of parental rights, the order shall contain all of the following:

(1) The identity of any agency, department, or individual that has received guardianship of the child;

(2) If an agency or department receives guardianship and custody of the child, an order ordering the child into the placement and care responsibility of the agency or department and assigning the agency or department primary responsibility for providing services to the child; and

(3) A finding that the termination of parental rights is in the best interests of the child.

708.36-7. If only one parent consents for a voluntary termination of parental rights or if the grounds for involuntary termination of parental rights are found to exist as to only one parent, the rights of only that parent may be terminated without affecting the rights of the other parent if the Court finds such termination to be in the best interest of the child.

### **708.37. Adoption**

708.37-1. Adoptions under this law may take the form of either open or closed adoptions. The type of adoption may be requested by any party and shall be approved by the Court. The procedure for open and closed adoptions shall be the same.

708.37-2. *Open Adoptions.* The purpose of an open adoption is not to permanently deprive the child of connections to, or knowledge of, the child's biological family, but to provide the child a permanent home. The following shall apply to all open adoptions:

(a) The relationship between an adoptive parent and adoptive child shall have all the same rights, responsibilities, and other legal consequences as the relationship between a biological child and parent;

(b) The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his or her biological family and his or her Oneida heritage;

(c) The adoptive child and members of the child's biological extended family, including the biological parents, shall have a right of reasonable visitation with each other, subject to reasonable controls of the adoptive parents; and

(d) Adoption shall not prevent an adoptive child from inheriting from a biological parent in the same manner as any other biological child. The biological parents shall not be entitled to inherit from an adoptive child in the same manner as parents would otherwise be entitled to inherit. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if biological parents and child.

708.37-3. *Closed Adoptions.* Adoption proceedings may be closed if deemed reasonable by the court. Closed adoptions occur in situations where a child needs a permanent home and it is necessary to sever all ties between the child and his or her biological family. The following shall apply to all closed adoptions:

(a) The relationship between an adoptive parent and adoptive child shall have all the same rights, responsibilities, and other legal consequences as the relationship between a biological child and parent;

(b) The relationship between the adopted child and all persons whose relationship to the adopted child is derived through the biological parents shall be completely altered and all the rights, duties, and other legal consequences of those relationships shall cease to exist;

(c) The child shall be entitled to information regarding his or her biological family upon reaching the age of majority; and

(d) The child's biological family shall not be entitled to or have access to any information regarding said child.

708.37-4. *Criteria for Adoption.* Any child who is subject this law may be adopted if any of the following criteria are met:

(a) Both of the child's parents are deceased;

(b) The parental rights of both of the child's parents with respect to the child have been terminated;

(c) The parental rights of one of the child's parents with respect to the child have been terminated and the child's other parent is deceased; and

(d) The person filing the petition for adoption is the spouse of the child's parent and either of the following applies:

(1) The child's other parent is deceased or

(2) The parental rights of the child's other parent with respect to the child have been terminated.

708.37-5. *Eligibility*. The following persons are eligible to adopt a child who falls under the jurisdiction of this law:

(a) A married adult couple, or either spouse if the other spouse is a parent of the minor; or

(b) An unmarried adult.

### **708.38. Adoption Procedure**

708.38-1. *Petition for Adoption*. A proceeding for the adoption of a child shall be initiated by a petition filed by the person proposing to adopt. The petition shall include the following information:

(a) The name, birth date, address, and tribal affiliation of the petitioner;

(b) The name, birth date, address, and tribal affiliation of the child;

(c) The names, birth dates, addresses, and tribal affiliation of the child's biological parents;

(d) The name by which the proposed adoptee shall be known if the petition is granted;

(e) The relationship of the petitioner to the proposed adoptee; and

(f) A copy of the order terminating parental rights of the child's biological parent(s).

708.38-2. Upon the filing of a petition for adoption, the Court shall schedule a hearing within sixty (60) days. Notice of the hearing shall be served on the parties pursuant to the Oneida Judiciary Rules of Civil Procedure.

708.38-3. When a petition for adoption is filed, the Court shall order an investigation to determine whether the child is a proper subject for adoption and whether the petitioner's home is suitable for the child. The Court shall order one of the following to conduct the investigation:

(a) If an agency or department has guardianship of the child, the agency or department that has guardianship; or

(b) If no agency or department has guardianship of the child and a relative, including a stepparent, has filed the petition for adoption, the Department, a tribal or county agency or department, or a licensed child welfare agency.

708.38-4. The agency or department making the investigation shall file its report with the Court prior to the hearing on the petition and shall provide the parties with a copy of the report at least three (3) calendar days prior to the hearing.

708.38-5. If the report of the investigation is unfavorable or if it discloses a situation which, in the opinion of the Court, raises a serious question as to the suitability of the proposed adoption, the Court may appoint a guardian ad litem for the minor whose adoption is proposed.

708.38-6. If after the hearing and a study of the report required by 708.38-3 the Court is satisfied that the adoption is in the best interests of the child, the Court shall make an order granting the adoption. The order may change the name of the minor to that requested by petitioners.

708.38-7. After the order of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent thereafter exists



between the adopted child and the adoptive parents. The relationship between the adopted child and all persons whose relationship to the adopted child is derived through the birth parents shall be completely altered and all the rights, duties, and other legal consequences of those relationships shall cease to exist, unless the birth parent is the spouse of the adoptive parent, in which case those relationships shall be completely altered and those rights, duties, and other legal consequences shall cease to exist only with respect to the birth parent who is not the spouse of the adoptive parent and all persons whose relationship to the adopted person is derived through that birth parent.

708.38-8. After entry of the order granting the adoption, the Department shall promptly mail a copy of the order to the State of Wisconsin Bureau of Vital Statistics and furnish any additional data needed for the issuance of a new birth certificate.

### **708.39. Peacemaking and Mediation**

708.39-1. The Court may refer the parties to peacemaking or mediation if the parties agree to attend peacemaking or mediation. The Court shall not refer the parties to peacemaking or mediation if attending the session will cause undue hardship or would endanger the health or safety of a party. When the parties attend peacemaking or mediation based on a referral from the Court, the Court shall enter an order finding good cause to suspend the time limits established under this law.

708.39-2. Through peacemaking, the parties may agree to post-voluntary termination of parental rights contact with a birth parent, birth sibling, or other birth relative of the child.

(a) Any party to a post-voluntary termination contact agreement may petition the Court that approved the agreement to compel any person who is bound by the agreement to comply with the agreement. The petition shall allege facts sufficient to show that a person who is bound by the agreement is not in compliance with the agreement and that the petitioner, before filing the petition, attempted in good faith to resolve the dispute giving rise to the filing of the petition. The petition may also allege facts showing that the noncompliance with the agreement is not in the best interests of the child.

(b) After receiving a petition for action regarding a post-voluntary termination contact agreement the Court shall set a date and time for a hearing on the petition and shall provide notice of the hearing to all parties to the agreement and may reappoint a guardian ad litem for the child.

(c) If the Court finds, after hearing, that any person bound by the agreement is not in compliance with the agreement and that the petitioner, before filing the petition, attempted in good faith to resolve the dispute giving rise to the filing of the petition, the Court shall issue an order requiring the person to comply with the agreement and may find a party in contempt.

(d) The Court may not revoke a termination of parental rights order or an order of adoption because an adoptive parent or other custodian of the child or a birth parent, birth sibling, or other birth relative of the child fails to comply with a post-voluntary termination contact agreement.

*End.*

---

Adopted – BC-\_\_\_\_\_



Legislative Operating Committee  
March 1, 2017

## Business Committee Meetings Law

<b>Submission Date:</b> 8/27/15	<b>Public Meeting:</b> 12/29/16
<b>LOC Sponsor:</b> Brandon Stevens	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *This is a proposal for a new law to govern the structure of the Oneida Business Committee Meetings, creating a more efficient process for conducting Tribal business.*

- 9/2/15 LOC:** Motion by Jennifer Webster to add the Business Committee Meetings Law to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously. *Note: Brandon Stevens will be the sponsor for this item.*
- 11/4/15 LOC:** Motion by Fawn Billie to accept the memorandum for the Business Committee Meetings Law as FYI and defer to the sponsor to bring back when ready; seconded by Tehassi Hill. Motion carried unanimously.
- 5/4/16 LOC:** Motion by Fawn Billie to make the Business Committee Meeting law a priority item on the Active Files List and to direct the sponsor to schedule a strategy meeting to discuss possible solutions to mitigate tension and improve the communication process at Business Committee meetings; seconded by Jennifer Webster. Motion carried unanimously.
- 9/21/16 LOC:** Motion by Jennifer Webster to accept the Oneida Business Committee Meetings law and send to the Legislative Reference Office for legislative and fiscal analysis; seconded by Tehassi Hill, seconded by Fawn Billie. Motion carried unanimously.
- 10/19/16:** *Quarterly Sponsor Update Meeting.* Present: Brandon Stevens, Jennifer Falck, Clorissa Santiago, Maureen Perkins, and Tani Thurner. LRO Director will schedule a work meeting to decide on some policy issues.
- 11/7/16:** *Work meeting held.* Present: Clorissa Santiago, Maureen Perkins, Tehassi Hill, Cathy Bachhuber, Fawn Billie, Brandon Stevens, Jo Anne House. In addition to working out draft details, the group decided to request that the Secretary change the Regular BC Meeting agenda, to improve efficiency.
- 11/16/16 LOC:** Motion by Fawn Billie to approve the Oneida Business Committee Meetings Law public meeting packet with the noted change and direct the LRO to hold a public meeting on December 29, 2016; seconded by Tehassi Hill. Motion carried unanimously
- 12/29/16:** Public meeting held.

**Next Steps:**

- Accept the public meeting comments and refer to a work meeting for consideration of the comments.



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office Staff Attorney  
DATE: March 1, 2017  
RE: Business Committee Meetings Law: Public Meeting Comment Review

---

On December 29, 2016, a public meeting was held regarding the proposed Business Committee Meeting law. This memorandum is submitted as a review of the oral and written comments received within the public meeting and public comment period. The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

### **Comment 1 – Roles and Responsibilities:**

**117.1-3. Roles and Responsibilities.** The Oneida Business Committee are elected by the membership and are delegated legislative responsibility under Article IV of the Constitution of the Oneida Nation, resolution # GTC-2-15-82, adoption of job descriptions in July of 1990, and a motion at the October 1998 General Tribal Council meeting.

**Ed Delgado (written):** I believe Section 117.1-3 may be worded wrong. The Oneida Business Committee is one body, and therefore, The Oneida Business Committee is elected...

Or you may say “Oneida Business Committee members are elected...”

In addition, the OBC is not exactly elected by the Oneida Nation membership. I think the Constitution says that the ONC is elected by the “Voters of the Nation,” Not all members vote.

### **Response**

The commenter identifies a grammatical error. The following revision is recommended based on the comment:

The Oneida Business Committee ~~are~~is elected by the membership of the Nation and ~~are~~is delegated legislative responsibility under Article IV of the Constitution of the Oneida Nation, resolution # GTC-2-15-82, adoption of job descriptions in July of 1990, and a motion at the October 1998 General Tribal Council meeting.

### **Comments 2 through 5 – Definition of “Tribal Entities”:**

**117.3-1(e) “Tribal Entities” means boards, committees, commissions, corporations, and organizational units of the Nation.**

**Lisa Summers (written):** “Tribal” and “Tribe” have been removed throughout other laws. It is only referenced in this law in the context. Alternate language should be considered for uniformity. See Line 74, Line 104, and Line 121.

**Lisa Summers (written):** Change to “Oneida Nation Secretary” for uniformity with other laws. See Line 120.

### ***Response***

The commenter identifies that alternative language could be considered for the use of the term “Tribal” so that the Oneida Business Committee Meetings law is uniform and consistent with other laws of the Nation.

It is recommended to replace the term “Tribal” throughout the law in every instance except when referencing the General Tribal Council. This recommended change would replace “Tribal Secretary” with “Oneida Nation Secretary,” and replace “Tribal members” with “members of the Nation” or “members.”

**Lisa Summers (written):** Since refers to corporations chartered by the Nation, it should be defined as “board, committee, and commission” is Line 53. Unless each reference to “corporation” throughout is followed by “of the Nation”. See Line 201 and Line 202.

**Lisa Summers (written):** The term “organizational units” is used in this definition only. In other areas of the law “programs” are referenced. Verbiage should be consistent and perhaps a definition should be added.

### ***Response***

The commenter illustrates some confusion and inconsistencies with the use of the term “tribal entities.” The LOC may want to consider how to address this inconsistency. The LOC may want to consider:

- Using the term “entity” when referring to a section of the law that references and applies to all boards, committees, commissions, programs, organizational units, or corporations of the Nation. Then if the section of the law only applies to one portion of what comprises an “entity” that term alone is used.
- If the term “entity” is not used enough throughout the law and the different groups that comprise the term “entity” could be used on their own when they apply. If the LOC makes this determination then the definition for “tribal entities” should be removed and the terms “boards, committees and commissions” and “corporations” be used and defined separately.
- Adding a definition for “corporation” which means a corporation chartered by the Nation.

- The term “organizational units” is only used in the definition of “Tribal entities,” but the term “program” is used once in the law in section 117.4-3(b)(3). The term “group” is used twice in the law, in section 117.4-3(b). It is recommended that it is clarified what was meant by the term “organizational unit,” if that term should be used throughout the law, or if the term “program” should be used instead.

#### **Comment 6 - Definitions:**

##### **Lisa Summers (written):**

1. Add definition of “tribal member” (or whatever uniform term has been determined which does not include ‘tribal’). See Line 81 and Line 86.
2. Add definition of “employee” to specify employees of the Nation.
3. Add definition of “Direct Report” – see BC Resolution 11-26-14-C
4. Add definition of “open session” and “executive session” or reference “as defined by the Open Records and Open Meetings Law.”

##### **Response**

The commenter requests that specific definitions be added to the law. It is recommended the following definitions be added to the Oneida Business Committee Meetings law:

“Open session” means a meeting which is held in a place reasonably accessible to members of the public at all times.

“Executive session” means a meeting which is held to discuss matters that require confidentiality and are not open to members of the public.

“Employee” means anyone employed by the Oneida Nation in one of the following employed capacities: full-time, part-time, emergency temporary, limited term or on a contractual basis.

In regards to the request for a definition of whatever uniform term is used for “Tribal member,” it is recommended that “member of the Nation” is used. The term “member of the Nation” would not require a definition because it is a specific phrase on its own. The LOC could decide to define “member of the Nation” as “means an individual enrolled in the Oneida Nation.” The LOC could also decide to use the term “member” on its own, which would be defined as “an individual enrolled in the Oneida Nation.”

In regards to the request for a definition of direct reports, Resolution BC-11-26-14-C defines direct reports as, “the following positions within the Tribe:

Area Manager-HRD  
Area Manager-Retail Profit  
Self-Governance Coordinator  
Chief Counsel  
Dir-Emergency Management  
Dir-Legislative Affairs

Div. Dir-Land Management  
Oneida Housing Authority  
Div. Dir-Development  
Div. Dir-Environmental Health  
Div. Dir-Governmental  
Div. Dir- Internal Services

Dir-Medical  
 Div. Dir-Comprehensive Health  
 Super-Organization Development  
 Asst. Development Div. Dir- Department  
 of Public Works

Gaming General Manager  
 Ombudsperson  
 Asst. Development Div. Dir- Planning

It is a policy decision for the LOC to determine if this information should be included as a definition for direct reports, if a more general definition for direct reports should be provided, or if it should be left undefined.

### Comments 7 through 10 – Discussion of Individuals :

**117.4-2(b)** All Tribal members and employees whose performance responsibilities or activities will be discussed at open meetings of the Oneida Business Committee will be given adequate notice to appear at the meeting or that matter must be reserved for executive session.

**Lisa Summers (written):** Correct language. Could be interpreted that “Tribal members” have “performance responsibilities or activities”

#### *Response*

It is recommended that the following revision be made:

117.4-2(b) All ~~Tribal~~ members of the Nation and employees whose actions, activities and/or performance responsibilities ~~or activities~~ will be discussed at open meetings of the Oneida Business Committee will be given adequate notice to appear at the meeting or that matter must be reserved for executive session.

**Dale Wheelock (oral testimony):** Good afternoon. I got a chance to briefly read through this and there were some issues that caused me a little concern. On page 2 of 3, line item number 27, it says discussion of individuals. And that one, I am concerned, it says, “any information received, that implicates the integrity, honesty or morality of a Tribal member or employee will be forwarded immediately to executive session. I think that was stemming from uhh, when people come to the council and they make a presentation about their situation. And I bring it in the context of the housing authority where at great lengths the person was evicted and they brought in their side of the issue. I think you’re trying to address that. That item should have been put into executive session, because from the Housing Authority’s side I looked at it as, well you got a chance to swing the bat up there at us but we didn’t get a chance to swing back. You know? There’s reasons why the person was terminated. Legitimate reasons. And it went to tribal court and they made their decision and we’re following the court’s decision. So information such as that will save you a lot of time, if when that comes up on the agenda you immediately put it into executive session. Or have executive session beforehand. So that can be aired out to a third party and they can listen to the context.

**Fawn Billie:** Just following up to what Dale was saying about the discussion of individuals, I

think we should also maybe have something in there where we don't even bring it up, or we just, kinda just call point of order. I think that's what we're currently doing. But that's not stated in here so maybe when an individual's name is brought up, or director, or somebody that's not present, I think we should also maybe add something in there.

**Jennifer Webster:** May I respond? We can call point of order all we want but ultimately it's up to the chair to recognize us trying to stop the discussion of an individual.

### ***Response***

Both commenters suggest moving any conversation regarding an individual immediately into executive session. As the law is currently written, as long as an individual is noticed that their actions, activities or performance responsibilities will be discussed during an open meeting, the individual can be discussed during the meeting, as long as during the discussion the integrity, honesty or morality of the individual is not mentioned.

If the integrity, honesty, or morality of an individual is brought up then the conversation must be referred to executive session immediately.

It is a policy determination for the LOC to decide what, if any, conversation can be had regarding an individual in open session.

In regards to having to call a point of order, the Business Committee Meetings law states:

**117.4-2(c) Should any information be received at any meeting of the Oneida Business Committee that implicates the integrity, honesty, or morality of a Tribal member or employee, such information shall be immediately referred to executive session without action or further discussion.**

**117.8-3. Enforcement by an OBC Officer or Member. Officers and Members of the Oneida Business Committee are authorized, under Robert's Rules of Order, to request a point of order to direct compliance with Robert's Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee.**

The law states that no action or further discussion would have to be taken in order to move the discussion of an individual to executive session.

### **Comments 11 through 23 – Public Comment:**

#### **117.4-3. Public Comment.**

**(a) The Oneida Business Committee meetings are conducted to make decisions regarding the business of the Nation as delegated by the General Tribal Council and the Constitution. However, public comment is a resource for ideas and concerns to be raised and addressed by the Oneida Business Committee.**



**(b) A Public Comment period is set forth on the agenda which will allow individuals to make comments. All comments are subject to the limitations of 117.4-2 when discussing individuals or groups. The comment period is not a question and answer period, it may be extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:**

- 1. A request to have the Oneida Business Committee review an issue or action.**
- 2. A comment on an item on the agenda.**
- 3. Praise regarding a entity, an individual, an employee, a board, committee, commission, program or group.**
- 4. A public notice about an activity or fundraising event.**
- 5. Other comments deemed pertinent by the Chairperson.**

**(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment period and open the regular business session of the agenda.**

**(d) Individuals speaking during the comment period are limited to 3 minutes each, which may be extended by request and approval of the Chairperson an additional 2 minutes.**

**Ed Delgado (written):** It appears that by limiting public comment at BC meetings to one segment of the agenda, that the intent of the proposed Law is to diminish discussion regarding items that might be relevant to members of the Oneida Nation, or at least relevant to those who might take time out of their week to participate. In addition, the limiting of public comment to one segment of the agenda seems to send a message to the people that their participation in BC meetings is not really wanted.

**Ed Delgado (oral testimony):** Uhh, I was somewhat confused on the reading of this because the analysis is uhh a little bit different than what's in the law. Umm, I read the analysis and I was all upset but the law, the proposed law itself, I's somewhat upset but not that upset. Umm, I don't, I would like to umm state my opposition to the part where you would have, at the beginning of the meeting or somewhere in the meeting, the only time that, uhh, attendees may speak. It would seem to me that everyone who runs for office, you know, should enjoy that and value that comment period. When boards, committees and commissions and tribal entities come up here there is lively discussion. That can be over burdensome sometimes, when it goes on and on and on. I think that's what you are trying to address. But I think there's a better way to address it than uhh putting people who want to comment in one section of the agenda and then they pretty much as if they, they're done and they don't speak anymore. Umm that's not very constituent friendly.

**Ed Delgado (oral testimony):** I think you need to better control of the discussion. And there was a time when someone goes on and on and on, you also, I believe you need a better control of when you guys say, uhh when you want to call for a vote. I forget what the terminology is, call for the question I guess, or something like that. Better control, but better use of that and control



of keeping people on an agenda, when you're up here three or four times on the one issue, that's where it causes the holdup.

**Dale Wheelock (oral testimony):** The other issue I have is uhh line 39. Uhh, “public comments will not be considered during any other portion of the meeting” and then it refers to section such and such. And this is similar to the Menominee’s. Well, we’re not the Menominees. Also, is this getting to the issue of freedom of speech? Because things that show up on the agenda, you can read about it and make your public comments beforehand like it is proposed in here, but what happens when an item comes up, like say in a director’s report, that creates a question by the people in the audience? Do they have the right to bring that issue up as discussion? Or do they lose that according to this? Because they had an opportunity at the beginning of the meeting to comment. I’m saying there will be new information that comes up that they want answers to, or they want to discuss more detail. So those were the two major items.

### ***Response***

The comments above all reference the limitation of public comments during Business Committee meetings. It is a policy determination for the LOC to decide how the Business Committee meetings are organized and when public comments will be accepted.

**Ed Delgado (written):** If a comment period is created under the proposed law (bad idea), the extending the Comment Period time allotted should be a decision of the Chair with the OBC having the power to override the decision by majority vote (see 117.4-3(b)).

### ***Response***

The commenter states that the approval of an extension of the comment period should be a decision of the chair. It is a policy determination for the LOC to decide whether the Chairperson or a majority of the Oneida Business Committee members should be responsible for approving a comment period time extension request.

**Lisa Summers (written):** Add a mechanism by which public comments can be submitted in writing.

### ***Response***

The commenter requests that a mechanism be added by which public comments can be submitted in writing. There is no recommended revision based on this comment due to the impracticality of adding a written comment period into the process for current Business Committee meetings.

The proposed revision for how Business Committee meetings are conducted allows public comments to be received in one portion of the agenda so that Business Committee members are able to receive input from the public while primarily focusing on conducting official business during meetings. It would not be logical to have written public comments submitted the day of the Business Committee meeting because the Business Committee members would not have adequate time to review and consider comments received before action is taken during the

meeting. There is also not enough notice provided to individuals on what topics will be on the Business Committee meeting agenda ahead of time for individuals to submit written comments with enough time to be reviewed before each meeting.

Although it is not recommended that a mechanism by which written comments can be submitted in writing be added, this does not limit or prohibit an individual from submitting oral or written comments, concerns or questions to Business Committee members at any time.

**Lisa Summers (written):** Add requirement that the OBC provide notice that if a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 117.7-2(a) and/or 117.4-2(a), they shall be removed in accordance with section 117.7-2.(b). – see comment #41

### ***Response***

The commenter requests that the Oneida Business Committee be required to provide notice at the beginning of the public comment period that if the meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates how attendees shall behave during meetings [section 117.7-2(a)], or discusses other individuals in an improper manner [section 117.4-2(a)], then the violator can be removed.

It is a policy determination for the LOC to decide if Oneida Business Committee members should give notice of the consequences for improper behavior at the beginning of the public comment period of the agenda, or if notice should be not be required to be given.

The LOC could address the comment in the following ways:

1. Leave the law as written and not require that the Oneida Business Committee members provide notice at the beginning of the public comment period.
2. Make the following revision, requiring notice to be given:

117.4-3(b) A Public Comment period is set forth on the agenda which will allow individuals to make comments. All comments are subject to the limitations of section 117.4-2 when discussing individuals or groups, and the limitations of section 117.7-2(a) for proper behavior when providing public comment. The Oneida Business Committee shall give notice to all attendees that if a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates any section of this law, the violator can be removed from the meeting in accordance with section 117.7-2(b). (c) The comment period is not a question and answer period, it may be extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:

**117.4-3(b) A Public Comment period is set forth on the agenda which will allow individuals to make comments. All comments are subject to the limitations of 117.4-2 when discussing individuals or groups. The comment period is not a question and answer period, it may be extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:**

- 1. A request to have the Oneida Business Committee review an issue or action**
- 2. A comment on an item on the agenda**
- 3. Praise regarding a entity, an individual, an employee, a board, committee, commission, program or group.**
- 4. A public notice about an activity or fundraising event.**
- 5. Other comments deemed pertinent by the Chairperson.**

**Lisa Summers (written):** “groups” are not included in 117.4-2 [*Discussion of Individuals*].

***Response***

The restrictions that apply when publicly commenting on one individual still apply when commenting on a group of individuals.

There is no recommended change based on this comment.

**Lisa Summers (written):** See comment #4. Does this refer to employees of the Nation?

***Response***

The term “employee” does refer to employees of the Nation. A definition of employee is recommended to be added to the law to clarify that mention of the term “employee” does refer to employees of the Nation.

There is no recommended change based on this comment.

**Lisa Summers (written):** Delete as “board, committee, and commission” is included in the definition of “Tribal Entity”

***Response***

The commenter points out an inconsistency of the use of the term “tribal entity” and the terms that comprise its definition. A discussion of options on how the LOC can decide to handle this inconsistency is found on page two (2) of this document.

**Lisa Summers (written):** See comment #3. Does this refer to an “organizational unit?”

***Response***

The commenter points out an inconsistency of the use of the term “tribal entity” and the terms that comprise its definition. A discussion of options on how the LOC can decide to handle this inconsistency is found on page two (2) of this document.

**Lisa Summers (written):** Language should be included to identify this refers to the person chairing the meeting whether that be the Oneida Nation Chair or Oneida Nation Vice-Chair. See Line 113, Line 227, Line 235, and Line 237.

### ***Response***

It is recommended that a definition for “chairperson” be added as follows:

“Chairperson” means the individual elected to serve as the chairperson on the Oneida Business Committee and other boards, committees or commissions of the Nation, or the individual serving as the vice-chairperson if the chairperson is unavailable.”

**117.4-3(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment period and open the regular business session of the agenda.**

**Lisa Summers (written):** As written, the BC would need to do both actions 1) close period and 2) open regular business session. If both actions are not completed, what happens? Could the actions taken in the rest of the meeting be nullified? Suggest striking as noted.

“(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment ~~period and open the regular business session of the~~ agenda.”

### ***Response***

The following revision is recommended:

(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment period. The Oneida Business Committee shall then continue with ~~and open~~ the regular business session of the agenda.

**117.4-3(d) Individuals speaking during the comment period are limited to 3 minutes each, which may be extended by request and approval of the Chairperson an additional 2 minutes.**

**Lisa Summers (written):** Correct to “three (3)”. If the goal is to set a time limit, then it should be firm. If three (3) minutes is not sufficient, then the law should read “five (5) minutes”. Suggest striking as noted.

(d) Individuals speaking during the comment period are limited to three (3) minutes each, ~~which may be extended by request and approval of the Chairperson an additional 2 minutes.~~

## Response

The commenter is identifying that “3 minutes” should be corrected to “three (3).” The following revision is recommended:

(d) Individuals speaking during the comment period are limited to three (-3) minutes each, which may be extended by request and approval of the Chairperson an additional two (2) minutes.

The commenter suggests removing the option of an extension of the individual public comment time period. Whether or not to allow a person to request an extension of their public comment time, or to set a firm time limit for public comment is a policy determination the LOC may make.

The LOC could address this comment in the following ways:

1. Leave this portion of the law as written. This limits an individual’s time allotment for public comments to three (3) minutes, unless extended by the Chairperson, for a maximum of five (5) minutes total.
2. Strike out the language allowing the extension, as requested by the commenter.
3. Strike out the language allowing the extension and expand the comment period limit to five (5) minutes per person.

## Comments 24 through 25 – Schedule of Meetings:

**117.5-2. Reporting Schedule.** The Tribal Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual reporting schedule by resolution.

**Lisa Summers (written):** Insert “quarterly” before reporting schedule.

117.5-2. Quarterly Reporting Schedule. The Tribal Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual quarterly reporting schedule by resolution.

### ***Response***

The addition of the work “quarterly” before reporting schedule narrows this section of the law to only apply to quarterly reports. If that was the intention of the LOC then the following revision is recommended.

117.5-2. Quarterly Reporting Schedule. The Tribal Oneida Nation Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual quarterly reporting schedule by resolution.

The LOC could also decide to remove the term “quarterly” so that this section applies to all reports given to the Oneida Business Committee by entities of the Nation, whether or not they occur on a quarterly basis. If the LOC determines that they wish to expand this section to apply to all reports no matter the schedule, then the following revision is recommended:

117.5-2. Reporting Schedule. The Tribal Oneida Nation Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual reporting schedule by resolution.

**Lisa Summers (written):** Should the reporting schedule for Direct Reports of the OBC be included and be adopted by resolution? If so, it is important to that they do not necessarily report on a quarterly basis (i.e. Chief Counsel reports each meeting, Gaming General Manager reports every two months).

### ***Response***

It is a policy determination for the LOC to decide whether Direct Reports of the Oneida Business Committee should be included and be adopted by resolution.

### **Comments 26 through 43 - Agenda:**

**117.6-1. Agenda – Regular Meetings.** The agenda of regular meetings of the Oneida Business Committee shall contain the following sections and the general characteristics of each section is defined.

- (a) *I. Call to Order.*
- (b) *II. Adopt the Agenda.*
- (c) *III. Oath of Office.*
- (d) *IV. Public Comment.*
- (e) *V. Minutes.*
- (f) *VI. Resolutions.*
- (g) *VII. Appointments.*

- (h) *VIII. Standing Committees.*
- (i) *IX. General Tribal Council.*
- (j) *X. Standing Items.*
- (k) *XI. Unfinished Business.*
- (l) *XII. Tabled Business.*
- (m) *XIII. New Business.*
- (n) *XIV. Travel Reports.*
- (o) *XV. Travel Requests.*
- (p) *XVI. Reports.*
- (q) *XVII. Executive Session.*

**117.6-1. Agenda – Regular Meetings.** The agenda of regular meetings of the Oneida Business Committee shall contain the following sections and the general characteristics of each section is defined.

**Lisa Summers (written):** The order of business should not change due to the meeting type (regular, special, emergency) but language should be included to allow unused section to be removed. An emergency meeting, example, may only include Call to Order, Adopt the Agenda, Executive Session and Adjourn; the order of business remains consistent, but “empty” sections are disregarded. With this in mind, the Roman Numerals should be removed from the section names listed in Lines 130-180.

**Lisa Summers (written):** Remove the term regular. See comment #19

**Lisa Summers (written):** “are” not “is”

### ***Response***

The commenter identifies that the agenda of Oneida Business Committee meetings is consistent throughout all types of meetings, whether it is a regular, emergency, or special meeting. The commenter is also states that not every section of the agenda will be used in every meeting and language should be included to reflect that.

The following revisions are recommended based on the comment:

117.6-1. Agenda—~~Regular Meetings.~~ The agenda ~~of for regular~~ Oneida Business Committee meetings ~~of the Oneida Business Committee~~ shall contain the following sections, ~~and t~~ The general characteristics of each section ~~is are~~ defined below. The Oneida Business Committee agenda shall only contain sections that have business that must be addressed in that meeting. Not all sections of the agenda will be addressed at every meeting of the Oneida Business Committee.

It is also recommended that the roman numerals be removed from the subsection names describing each section of the agenda.

**Lisa Summers (written):** If the intent is to set the order of business, language should be included to reflect this.



### *Response*

The LOC may want to consider addressing whether it was the intent of this section of the law to set a specific order of business for the agenda that must be followed, or if this section of the law just describes the various sections that comprise an agenda.

The LOC could address this comment in the following ways:

1. Determine that it was the intent of this section of the law to set a specific order of business for the agenda that must be followed in every meeting. If this was the intent of the LOC then language should be included to reflect this intent. Possible language could include the addition of the following to this section: “The Oneida Business Committee shall conduct business according to the following order of the agenda:”
2. Determine that it was not the intent of this section of the law to set a specific order of business for the agenda to be followed in every meeting. This would allow for more flexibility in how Oneida Business Committee meetings are held. There would be no recommended changes to the language of the law for this determination.

**117.6-1(a) I. Call to Order. The meeting shall be called to order, shall establish the existence of a quorum, and identify reasons why members of the Oneida Business Committee are not present.**

**Lisa Summers (written):** “The meeting” cannot establish or identify. Is the intent that the Chair call the meeting to order, establish...and identify....?

### *Response*

The following revision is recommended:

117.6-1(a)~~I~~. Call to Order. The Chairperson shall call the meeting to order. ~~shall be called to order~~, The Chairperson shall establish the existence of a quorum, and identify reasons why members of the Oneida Business Committee are not present.

**117.6-1(b) II. Adopt the Agenda. The agenda for the meeting shall contain necessary subsections so as to identify each item. If there are amendments to the agenda, they should be made during this item, but are not required to be done under this item.**

**Lisa Summers (written):** “section” not “item”

### *Response*

The following revision is recommended:



117.6-1(b)-~~H~~. Adopt the Agenda. The agenda for the meeting shall contain necessary subsections so as to identify each ~~item~~section. If there are amendments to the agenda, they should be made during this ~~item~~section, but are not required to be done under this ~~item~~section.

**117.6-1(c) III. Oath of Office. Individuals who have been elected or appointed to an office on a board, committee, commission, as a police officer or other employee requiring an oath to be taken, or an agent or member of a corporate board, shall be given the oath of office,**

**Lisa Summers (written):** Delete as agents or members of corporate boards are not required to take their oaths of office at a regular meeting.

### *Response*

The following revision is recommended:

117.6-1(c)-~~III~~. Oath of Office. Individuals who have been elected or appointed to an office on a board, committee, commission, as a police officer or other employee requiring an oath to be taken, ~~or an agent or member of a corporate board,~~ shall be given the oath of office,

**117.6-1(d) IV. Public Comment. This section of the agenda shall be one hour in length and open to any comment presented by an individual; after which time the meeting will be closed to public comment and the Business Committee shall begin the official business on the agenda.**

**Lisa Summers (written):** This language implies the public comment period will be one hour regardless of the number of individuals providing comment; therefore if no one present for public comment at the start of the one hour, the meeting cannot continue until the hour is up because an individual could appear at the 50 minute mark to provide comment. Language should be modified to clarify intent.

**Lisa Summers (written):** Language here is not consistent with 117.4-3.(c). Suggest referring to that section of the law instead:

“(d) IV. Public Comment. This section of the agenda shall be one hour in length and open to any comment in accordance with 117.4-3. ~~presented by an individual; after which time the meeting will be closed to public comment and the Business Committee shall begin the official business on the agenda.~~”

### *Response*

The commenter identifies that the language on how long the public comment period should last during a meeting is open to interpretation when the intent was the period to last a maximum of one hour, but not to stay open for an hour even if there are no commenters present. The

commenter is also identifying that all sections that discuss the public comment period should be consistent.

The length of the public comment period is mentioned in 117.6-1(d), while 117.4-3 discusses the public comment period as a whole and extending the comment period. For the sake of clarity and consistency the following revisions are recommended:

117.6-1(d) ~~IV.~~ Public Comment. This section of the agenda shall be ~~one hour in length and open to any comment presented by an individual in accordance with section 117.4-3; after which time the meeting will be closed to public comment and the Business Committee shall begin the official business on the agenda.~~

117.4-3(c) The comment period is not a question and answer period. The public comment period shall be a maximum of one hour in length. The public comment period ~~it~~ may be extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:

1. A request to have the Oneida Business Committee review an issue or action.
2. A comment on an item on the agenda.
3. Praise regarding a Tribal entity, an individual, an employee, a board, committee, commission, program or group.
4. A public notice about an activity or fundraising event.
5. Other comments deemed pertinent by the Chairperson.

(c) Public comments shall not be entertained on any other portion of the agenda. After all individuals present their comments, or the one (1) hour time limit has been met, whichever occurs first, the Oneida Business Committee shall, by motion, close the public comment period ~~and open the regular business session of the agenda.~~

**117.6-1(f) VI. Resolutions.** Any resolution approving or adopting an action, supporting or appointing a position or individual, and all other resolutions to be acted upon by the Oneida Business Committee shall be presented in this section.

**Lisa Summers (written):** If “all resolutions” are presented in this section, the first part of this sentence is redundant.

**Lisa Summers (written):** Resolution are “adopted” or change to “This section shall be utilized to present all resolutions to Oneida Business Committee for adoption.”

“(f) VI. Resolutions. ~~Any resolution approving or adopting an action, supporting or appointing a position or individual, and~~ All other resolutions to be adopted ~~acted upon~~ by the Oneida Business Committee shall be presented in this section.”

### **Response**

The following revision is recommended:

117.6-1(f) Resolutions. ~~Any resolution approving or adopting an action, supporting or appointing a position or individual, and all other resolutions to be acted upon by the Oneida Business Committee shall be presented in T~~ this section shall be utilized to present all resolutions to the Oneida Business Committee for adoption.

**117.6-1(g) VII. Appointments.** Actions regarding appointments to boards, committees, commissions, corporate entities, and other membership on entities shall be taken in this section in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions and other laws, policies and rules.

**Lisa Summers (written):** Unclear what this [“other membership on entities”] is referring to.

### *Response*

The term “other membership on entities” is used to allow flexibility in the future if a person is appointed to some group that is not a board, committee, commission, or corporation.

The following revision is recommended:

117.6-1(g)—~~VII~~. Appointments. Actions regarding appointments to boards, committees, commissions, ~~corporate entities~~corporations, and other memberships ~~on entities~~of the Nation shall be taken in this section in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions and other laws, policies and rules.

**Lisa Summers (written):** Should the name be included here? Current draft lists name of this policy as “Governance of Boards, Committees and Commissions”.

### *Response*

The commenter points out that the title of the current law is “Governance of Boards, Committees and Commissions” while it is referred to in this section as “Comprehensive Policy Governing Boards, Committees and Commissions.” This difference in title is due to the fact that the “Governance of Boards, Committees and Commissions” is currently being amended and the title has changed to “Comprehensive Policy Governing Boards, Committees and Commissions.”

The LOC could decide to leave this reference as currently stated, referencing the upcoming revised title or the LOC can revise the section as follows, utilizing a more general reference:

117.6-1(g)—~~VII~~. Appointments. Actions regarding appointments to boards, committees, commissions, corporate entities, and other membership on entities shall be taken in this section in accordance with the Nation’s laws, policies and rules governing Comprehensive Policy Governing ~~b~~Boards, ~~c~~Committees and ~~c~~Commissions, and other laws, policies and rules of the Nation.

**117.6-1(i) IX. General Tribal Council. This section shall be utilized to address issues related to scheduling General Tribal Council meetings, accepting and directing action regarding petitions, and approving materials for presentation at General Tribal Council meetings.**

**Lisa Summers (written):** Section should be moved before the section entitled “Executive Session.”

***Response***

The LOC may want to determine if the listing of the sections of the agenda should be followed in that particular order, or if the sections are listed in no particular order allowing flexibility. The LOC may want to determine if the General Tribal Council section should remain where it is currently located or be moved before the Executive Session section.

**Lisa Summers (written):** Deleted “scheduling” before General Tribal Council meetings. “such as scheduling,” The section should include all GTC related items, not just those related to scheduling. It should be noted this section is not open to the public, but for Tribal members only.

***Response***

The following revisions are recommended:

117.6-1(i) ~~IX.~~ General Tribal Council. This section shall only be open to members of the Nation, and shall ~~be utilized to~~ address issues related to ~~scheduling~~ General Tribal Council meetings, accepting and directing action regarding petitions, and approving materials for presentation at General Tribal Council meetings.

**117.6-1(k) XI. Unfinished Business. This section shall be utilized when agenda items from prior regular, special, or emergency meetings were unable to be completed.**

**Lisa Summers (written):** The order of business should not change due to the meeting type (regular, special, emergency) but language should be included to allow unused section to be removed.

***Response***

The following revision is recommended:

117.6-1(k) ~~XI.~~ Unfinished Business. This section shall be utilized when agenda items from prior ~~regular, special, or emergency~~ meetings were unable to be completed.

**117.6-1(m) XIII. New Business. Any business brought before the Oneida Business Committee that does not otherwise fit in any of the categories listed in this section shall be placed in this section.**

**Lisa Summers (written):** Language is confusing because it refers to “section” as in section of the law and “section” as in the section of the order of business for the agenda.

**Response**

The following revision is recommended:

117.6-1(m)–~~XIII~~. New Business. Any business brought before the Oneida Business Committee that does not otherwise fit in any of the other agenda categories ~~listed in this section~~ shall be placed in this section.

**Lisa Summers (written):** General comment on uniformity for Lines 130-184: language is inconsistent. Examples:

Subsections (i)-(l): “This section shall be utilized...”

Subsections (n)-(q) : “This section shall be used....”

Other sections include variations such as:

“...shall be taken in this section...”,

“...under this item.”, “This section of the agenda...”, and

“...shall be listed in this section.”

**Response**

For the sake of consistency it is recommended that all references to “in this section” be revised to “in this section of the agenda” and all references of “this section shall be utilized” be revised to “this section shall be used.”

**Comments 44 through 47 –Requests to Present Agenda Items:**

**117.6-2. Requests to Present Agenda Items.** In general, the following officers and individuals are authorized to present items on the agenda of the Oneida Business Committee.

(a) *Oneida Business Committee Members.* Each member of the Oneida Business Committee is authorized to present items to be placed on the agenda for discussion and/or action.

(b) *Chairpersons of Boards, Committees or Commissions.* Chairpersons, on behalf of boards, committees or commissions, shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports; and

(2) contracts for the entity itself requiring Oneida Business Committee approval.

All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

(c) *Direct Reports.* Employees who are identified as direct reports to the Oneida Business Committee shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports;

(2) contracts of the entity requiring Oneida Business Committee approval; and

(3) requests for actions under the section “XIII. New Business.”

(d) *Corporations.* Chairs or Agents on behalf of corporate entities shall be authorized to submit the quarterly reports of the corporation, as directed by the corporate charter to be placed on the agenda. All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

**Ed Delgado (written):** Section 117.6-2 says “In general, the following officers and individuals are authorized to present items on the agenda of the Oneida Business Committee.” My question is, what is meant by “officers?”

### *Response*

The term “officer” used in section 117.6-2 refers to those individuals holding an officer position on the Oneida Business Committee or other boards, committees and commissions of the Nation. The term “officer” includes the positions of Chairperson, Vice Chairperson, Secretary and Treasurer.

The use of the term “officer” in this portion of the law may not be necessary because the subsections clearly specify which individuals are authorized to present items on the agenda of the Oneida Business Committee. The following revision is recommended:

117.6-2. *Requests to Present Agenda Items.* In general, the following ~~officers and~~ individuals are authorized to present items on the agenda of the Oneida Business Committee.

**117.6-2(b) Chairpersons of Boards, Committees or Commissions.** Chairpersons, on behalf of boards, committees or commissions, shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports; and

(2) contracts for the entity itself requiring Oneida Business Committee approval.

All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison

**Lisa Summers (written):** Are there other laws which reference OBC liaisons? What if the practice is discontinued? Suggest use of broader language. See Line 205.

### *Response*

The commenter questions the practice of OBC liaisons, and what would happen if they were discontinued. After having further discussion with the commenter, it was discovered that there was a question of intent behind the drafting of this section.

The LOC may want to determine if it was intended to only allow a chairperson of a board, committee or commission the power to put quarterly reports and contracts on the agenda, while

having the chairperson go to their OBC member liaison to have anything else placed on the agenda. If this is the case, would a liaison be able to deny placing an item on the Business Committee meeting agenda?

If it is not the intent to limit what a chairperson of a board, committee or commission can place on the agenda then the following revision is recommended:

117.6-2(b) Chairpersons of Boards, Committees or Commissions. Chairpersons, on behalf of boards, committees or commissions, shall be authorized to submit the following to be placed on the agenda:

- (1) quarterly reports; ~~and~~
- (2) contracts for the ~~entity~~ board, committee or commission itself requiring Oneida Business Committee approval; ~~and~~
- (3) ~~All any~~ other items ~~that~~ must be placed on the Oneida Business Committee meeting agenda. ~~by the Oneida Business Committee member assigned as a liaison~~

**117.6-2(d) Corporations. Chairs or Agents on behalf of corporate entities shall be authorized to submit the quarterly reports of the corporation, as directed by the corporate charter to be placed on the agenda. All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.**

**Lisa Summers (written):** [Chairs or Agents] Some corporation have presidents. Language should be broader to include all, or ensure all potential titles are included in the law.

**Lisa Summers (written):** [corporate charter] Not all corporations have a charter. OTIE, for example, has an Operating Agreement.

### **Response**

The following revision is recommended:

117.6-2(d) Corporations. All cChairpersons, presidents,s or aAgents on behalf of corporate entitiesof a corporation shall be authorized to submit the quarterly reports of the corporation to be placed on the agenda on behalf of the corporation, as directed by the corporate charter, operating agreement or other governing document, ~~to be placed on the agenda.~~ All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

This section also raises the question of whether it was intended to limit what a chairperson or other head of a corporation can place on the Business Committee agenda.

### **Comments 48 through 49 – Sergeant-at-Arms:**

**117.7-1. Sergeant-at-Arms.** The Oneida Business Committee shall designate an individual to serve as the sergeant-at-arms for Oneida Business Committee meetings. The sergeant-at-arms shall oversee the security of the meeting and ensure the safety of all present.



**Ed Delgado (written):** The Chair should appoint the Sargent at Arms.

**Ed Delgado (oral testimony):** Uhh also, when it came to the sergeant-at-arms- in the analysis it says that the OBC appoints a sergeant-at-arms, but normally it would seem to me that it would be the chairperson who appoints the sergeant-at-arms. And that sergeant-at-arms would be, you know, upon the request of the chair, to be able to remove someone for disturbing the peace, which I agree with. So, those are my comments. Thank you

### ***Response***

It is a policy call for the LOC to consider whether it would like the Oneida Business Committee to designate an individual to serve as sergeant-at-arms for the Oneida Business Committee meetings, as the law is currently written, or if the Chairperson alone should appoint the Sergeant-at-Arms.

### **Comments 50 through 54 – Oneida Business Committee Meeting Attendees:**

#### ***117.7-2. Oneida Business Committee Meeting Attendees.***

(a) **Keeping in line with the Oneida principle of Kalihwi-ay% all attendees including the Oneida Business Committee members are expected to treat each other with respect and kindness. Attendees who wish to audio or video record an OBC meeting will be required to register on a sign-up sheet prior to recording in order to make the recording obvious to those in attendance and in order for the OBC to regulate the placement of recording devices. Such recordings are not considered part of the official record. Attendees shall not:**

- (1) Use profanity, interrupt others, heckle or threaten people, disrespect property or exhibit behavior that disrupts the meeting or endangers the safety of other attendees.**
- (2) Be under the influence of alcohol or illegal drugs.**
- (3) Have a weapon on their person in violation of any applicable law.**
- (4) Take action that violates the laws of the Nation.**

**Ed Delgado (written):** The term “attendees” needs to be defined. It is interesting that the same term is used in General Tribal Council Meeting Law, however, the term attendee in one instance is used define the governing body of the Oneida Nation (GTC Meeting Law), and in the other instance the term is used to define persons merely in attendance with no governing authority (GC Meeting Law).

**Ed Delgado (oral testimony):** Uhh, first uhh, the first thing I noticed is, in the analysis it uses the term “attendees” which the people out here, when we’re out here I agree we are attendees. But the use of that term in the GTC Meetings law refers to the General Tribal Council as attendees. And there’s a big different there between Oneida Tribal members attending BC members where we are attendees versus General Tribal Council in session. And we’re referred to in that GTC Meetings law as attendees, which is very contrary to our Constitution. When GTC members are in session that’s when we’re GTC members and we are not attendees at GTC



meetings, we are members of the General Tribal Council. I know this is a meeting to make comment on the BC Meetings law, but I think what or how you put in that resolution, and I know you don't have to bring it to GTC because it's by resolution, and something somewhere says you can do that, but it's very disrespectful to call the General Tribal Council members, those 1,500 hundred people attendees when they are the legislative body. That would be the same as calling you guys attendees when you're in session. You're not attendees, you're the governing body. So that's my main issue. But, umm, you don't call them attendees in this, so uhh I would hope that someday you change that resolution creating the GTC Meetings law.

### ***Response***

In regards to the commenter's question about the use of the term "attendees", the term "attendees" is not defined in the Business Committee Meetings law because the term is used in its everyday and ordinary sense. In the Business Committee Meetings law "attendees" refers to a person who attends the Business Committee meeting. The term attendees has the same use and meaning in the General Tribal Council Meetings law, except for the people attending the General Tribal Council meetings are the people who comprise the General Tribal Council, or the governing body of the Oneida Nation. It is important to note that an enrolled member of the Nation is only a member of the General Tribal Council when the General Tribal Council is in session, otherwise they are referred to as members of the Nation. The use of the term attendees in this law has no bearing on the use of the term attendees in the General Tribal Council Meetings law.

There is no recommendation based on this comment.

**Ed Delgado (written):** Also under 117.7-2(a), it is hard to legislate kindness and I don't believe that the Kalihwiyo is intended to regulate certain behaviors that require kindness, but other behaviors can be prohibited by law. Remember, Handsome Lake was told by a higher being to stop killing people he believed to be witches.

### ***Response***

There is no recommended revision based on this comment.

**Ed Delgado (written):** How are you going to regulate being under the influence of illegal drugs? Blood and urine tests at BC meetings. That would be weird.

### ***Response***

The Oneida Business Committee Meetings law does not require drug or alcohol testing as a condition for attending the meeting. Oneida Business Committee members will be able to regulated prohibited drug and alcohol usage by removing any person they believe is under the influence of drugs or alcohol. Section 117.7-2(b) of the Oneida Business Committee Meetings law states, "if a person violates section 117.7-2(a) or 117.4-2(a), the Oneida Business Committee shall inform the person he or she will be removed from the meeting. After a warning, the Chairperson may order the sergeant-at-arms to remove the person from the meeting."

It is a policy call of the LOC to determine if attendees should be prohibited from being under the influence of drugs and alcohol during Oneida Business Committee meetings, and how that prohibition is regulated.

**Ed Delgado (written):** Persons recording a meeting, audio or video, should only be required to register or sign in if their equipment creates a disturbance with light, noise or location. Otherwise a person recording the meeting in whole or in part with their phone or other small unnoticeable device should not have to register or sign in. Public meetings with today's technology should use that technology to enhance transparency.

### *Response*

It is a policy call for the LOC to consider whether an attendee should be required to register on a sign-up sheet prior to recording the meeting, as the law is written, or if an attendee should be allowed to freely record as long as their recording equipment does not create a disturbance.

### **Comments 55 through 62 – Removal of a Disorderly or Disruptive Person:**

**177.7-2(b) *Removal of a Disorderly or Disruptive Person.*** If a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 117.7-2(a) and/or 117.4-2(a), the Oneida Business Committee shall inform the person he or she will be removed from the meeting. After a warning, the Chairperson may order the sergeant-at-arms to remove the person from the meeting. No person shall be removed from a public meeting except for an actual breach of the peace committed at the meeting. An individual removed from an Oneida Business Committee meeting shall not be allowed to return for the duration of the meeting.

**Lisa Summers (written):** “Change to Individual” Removal of a Disorderly or Disruptive ~~Person~~Individual.

**Lisa Summers (written):** Change to “individual” “No ~~person~~individual shall be removed from a public meeting except for an actual breach of the peace committed at the meeting.”

### *Response*

There is no recommended change based on these comments.

**Ed Delgado (written):** Also, the Chair should be the only person to order the removal of someone at the meeting, perhaps at the recommendation of OBC member. The decision to remove or not to remove should perhaps be appealable my majority OBC vote.

**Lisa Summers (written):** Delete “If a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 17.7-2(a) and/or 117.4-2(a), the Oneida Business Committee shall inform the person he or she will be removed from the meeting.

After a warning, the Chairperson may order the sergeant-at-arms to remove the person from the meeting.”

1) Require the OBC to notify the public at the public comment period that if a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 117.7-2(a) and/or 117.4-2(a), they shall be removed in accordance with section 117.7-2.(b). (see comment #14).

2) RRO, Part II, Art. XIII, Rule 73: “73. Right of an Assembly to Eject any one from its Place of Meeting. Every deliberative assembly has the right to decide who may be present during its session; and when the assembly, either by a rule or by a vote, decides that a certain person shall not remain in the room, it is the duty of the chairman to enforce the rule of order, using whatever force is necessary to eject the party.”

The OBC decides if a person is it be removed (adding language about final decision & appeal) and the Chair enforces this decision (language removed to comment #44). Suggest revising the language to make this distinction clear such as:

“At the decision of the Oneida Business Committee, the Chairperson shall request the sergeant-at-arms to remove from an Oneida Business Committee meeting members of the public who do not follow this law.”

Suggest revising the language to make this distinction clear such as:

“If a meeting is willfully interrupted by an individual and the meeting cannot proceed forward or the individual violates section 117.7-2(a) and/or 117.4-2(a), the Oneida Business Committee shall decide if the individual shall be removed from the meeting. The Oneida Business Committee’s decision is final and is not appealable.”

### ***Response***

It is a policy call of the LOC to determine the procedure for removal of a disorderly or disruptive person.

The LOC could decide to address the comments in the following way:

1. Leave the law as written. The law states that if a person is being disorderly or disruptive during a meeting, the Oneida Business Committee shall inform the person he or she will be removed. After a warning the Chairperson may order the sergeant-at-arms to remove the person. The way the law is currently written has the Chairperson as the one who decides to order the sergeant-at-arms remove a disruptive or disorderly person, and the Oneida Business Committee just provides the warning.
2. Make the following revision:

117.7-2(b) Removal of a Disorderly or Disruptive Person. If a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates

section 117.7-2(a) and/or 117.4-2(a), the Oneida Business Committee shall ~~inform the person he or she will be removed from the meeting~~ decide if the individual shall be removed from the meeting. The Oneida Business Committee's decision to remove a person is final and is not appealable. At the decision of the Oneida Business Committee, the Chairperson shall ~~After a warning, the Chairperson may~~ order the sergeant-at-arms to remove the person from the meeting. No person shall be removed from a ~~public~~ meeting except for an actual breach of the peace committed at the meeting. An individual removed from an Oneida Business Committee meeting shall not be allowed to return for the duration of the meeting.

**Lisa Summers (written):** This is the first reference to “public meeting”. The term “public” is used to in the policy statement and in Line 78 to restate the policy statement. Referring to meetings of the Oneida Business Committee as “public meetings” here implies they are another meeting type (i.e. regular, special, emergency).

***Response***

It is recommended that the word “public” be removed.

**Lisa Summers (written):** This adjective is not needed. “except for an ~~actual~~ breach of the peace committed at the meeting.”

***Response***

There is no recommended change based on this comment.

**Dale Wheelock (oral testimony):** Ohh let’s see, ohh, wait a minute, there is one more that caught my attention. On page 5, under 224 it refers to removal of disorderly or disruptive persons. Uhh, who determines that? Is that the chairperson that makes that determination? Or would it be the council themselves?

***Response***

It is the Oneida Business Committee that makes the determination of if a person should be removed from a meeting. After a warning, the Chairperson may order the sergeant-at-arms to remove the person from the meeting. It is a policy call of the LOC to determine the procedure for removal of a disorderly or disruptive person.

**Dale Wheelock (oral testimony):** And, I guess that’s a two part question. If it’s the council could the council remove another council member because they’re disruptive in their responses or their behavior? Because in the past I’ve seen that happen too. I think back to, I think 2013, there was dialogue between the chairperson and the treasurer, no secretary at the time, and it was on the internet, that’s where I saw it and it didn’t look nice for the public to see those kind of comments going on between, you know. I kind of think about city council, it can get pretty disruptive too but ours are a little bit more than that. So there are just clarification on can a council member themselves be removed by the councilmembers for disrupting the meeting. And

that's just all I had to offer.

### **Response**

As written, the Business Committee Meetings law applies to members of the Oneida Business Committee as well as the general public, so the Oneida Business Committee would indeed be able to remove a fellow Oneida Business Committee member if he or she was disorderly or disruptive.

### **Comment 63 –Enforcement by the OBC Chairperson:**

**117.8-2. Enforcement by the OBC Chairperson.** The Chairperson may request members of the public who do not follow this law be removed from an Oneida Business Committee meeting by the sergeant-at-arms. The Chairperson's decision is final and is not appealable.

**Lisa Summers (written):** Delete “The Chairperson may request members of the public who do not follow this law be removed from an Oneida Business Committee meeting by the sergeant-at-arms. The Chairperson's decision is final and is not appealable.”

:RRO, Part II, Art. XIII, Rule 73: “73. Right of an Assembly to Eject any one from its Place of Meeting. Every deliberative assembly has the right to decide who may be present during its session; and when the assembly, either by a rule or by a vote, decides that a certain person shall not remain in the room, it is the duty of the chairman to enforce the rule of order, using whatever force is necessary to eject the party.”

The OBC decides who is it be removed (language about final decision & appeal removed to comment #41) and the Chair enforces this decision. Suggest revising the language to make this distinction clear such as:

“At the decision of the Oneida Business Committee, the Chairperson shall request the sergeant-at-arms to remove from an Oneida Business Committee meeting members of the public who do not follow this law.”

### **Response**

The following revision is recommended:

117.8-2. Enforcement by the Oneida Business Committee Chairperson. At the decision of the Oneida Business Committee t~~The Chairperson may shall request members of the public who do not follow this law be removed from an Oneida Business Committee meeting by the~~order the sergeant-at-arms to remove any disorderly or disruptive person from the meeting. The Chairperson's decision is final and is not appealable.

### **Comments 64 through 65 -Enforcement:**

**117.8-3. Enforcement by an OBC Officer or Member.** Officers and Members of the Oneida Business Committee are authorized, under Robert's Rules of Order, to request a point of

**order to direct compliance with Robert’s Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee.**

**Lisa Summers (written):** Insert space [between “law” and “or”].

***Response***

The commenter identifies a grammatical mistake. It is recommended to make the following revision:

117.8-3. Enforcement by an Oneida Business Committee Officer or Member. Officers and Members of the Oneida Business Committee are authorized, under Robert’s Rules of Order, to request a point of order to direct compliance with Robert’s Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee.

**Ed Delgado (written):** Section 117.8-3 identifies the OBC as “Officer or Member.” Officers are members as are Councilmembers. Also, the proposed law uses the term “officer” under an earlier (117.6-2) the term officer is used but I have asked what is meant by the term? Maybe it would be clearer to simply say “Enforcement. Any Oneida Business Committee member is authorized.....”

***Response***

There is no recommended change based on this comment.

**Comments 66 through 67 –General Comments:**

**Ed Delgado (oral testimony):** Thankfully, Tina doesn’t really follow that meeting, that GTC Meetings law which allows security to remove attendees of General Tribal Council. That would be like security walking around and removing one of you guys at the, uh, because they’re in the mood or they think you’re doing something wrong. Just like you shouldn’t be removed by a security guard or sergeant-at-arms, neither should uhh General Tribal Council.

***Response***

The commenter is referencing the General Tribal Council Meetings law. There is no recommended change based on this comment.

**Chaz Wheelock (oral testimony):** Well Good Morning, how are you today? Pleasure to be here. I think, what I see is an overall opportunity in all of this, without reading all of this, I about communications between the leadership and the membership. And I assume you’re going to ask me the same question you just asked Ed, umm and I am a advocate for two things. One, is a systematic review of the whole thing. How do we communicate now is a part of this, obviously something isn’t working. And how do we communicate better. But ultimately the goal is how do we want to be communicated with, and then how do we want to communicate. And the role you



have as nine elected officials, I ain't elected to be a GTC member, I was born into it, right or wrong, whether you agree or not. I was born into that. But then also there is a relationship between that being born into that that goes way beyond what's in our, our stuff. You know it's a Oneida Nation member, a big communication to all the members no matter where they live.

So I think there's an opportunity here, and I'll say districts as a way. Right now we have a big forum, 1,500 hundred Oneidas, should be applauding it. Lovely, beautiful. And yet it's not a forum where everybody can communicate in. Public speaking, we've lost that oratory of 50 chiefs around the old, around the old fire. It's a different world now a days. From what we've gone through, or what we've been educated to, whatever it might be that impacts on how we articulate things, almost like we need to do a small condolence. Like you know, are we listening? Are we speaking clearly? You know, and are we seeing what needs to be seen? So I think there's opportunity in there. I think the office came up here years ago and had a approach towards communication. And then because of politics and various things that was never retained. Was it institutionalized? I don't think so. But if you brought the two directors up here you might get a different response from them. And they couldn't attend today, not that if they would, I don't know. But that was some old work that was done that should fit into the opportunity to communicate better. But then again the small condolence is not for leadership, but for us out here too, membership. Do we go through that anymore? Do we speak clearly to each other? Do I just get loud? Do you hear me when I get loud? Do I whisper? You know, what's the style people have of communicating. It all gets into a lot of different dynamics of their personal history and hat they've seen. So, I just think there's an opportunity here with that. Umm, but there's a bit of healing that needs to go on as well. I think, that goes into communications. You know, we didn't get a divorce yet, but we're separated sometimes. You know, and the petition is kinda that divorce to me, it's a symbol of, damn, nobody listening, what am I going to do? So I think there is an opportunity here to really address that systematically. That what is our communication system in Oneida right now? But then, historically what has it been and did it work. Some people say, well districts and GTC structuring, and people say well then you talk to people like hypothetically, the Yakamas who have a GTC and hypothetically does it work for them? Yes or no? Umm, but what works here, that's up to us to determine that. We can look at all kinds of resources, we can do all kinds of research collecting knowledge, but then it's up to us here to connect the dots. Make sure it functions, make sure it works. And if it doesn't work, be able to speak up loudly and clearly, but not through a petition that costs us a quarter million approximately now. There's a better way to spend a quarter million on communications, I think, than having a GTC petition on communications. Which can be drafted if need be, but I think we want to avoid that.

So my bottom line point is I think there is a golden opportunity here to really address not only what we are saying, but how we are saying it. And then not only on the membership side, but what we hear, but then what do we do with it once we hear something. And if it's concerning enough to us to do a petition then I guess that's a right we have in our system. But the more and more laws we make it seems like we get more and more lawless, ironically. I think there's a great law I think somebody said. It's not a good law, it's a great law. There's a reason they call it a great law, not an okay law, okay. It has guidance for us. And that was given to us by whom? You know, all respects, not by Brandon, or Tehassi you know, or Jennifer or Fawn. It was given to us by another power. So where those things fit in now as we try and restructure – I got my time limit right? I didn't bring my watch [**Tehassi Hill:** You have 20 seconds.] I got 20 seconds left? Okay, so there is a golden opportunity to do this. If you don't do it and we meander through

piecemeal, and a part of it is putting the pieces together, this is, I think this is one piece, not knowing all the details, but there is many pieces to put together. That's the point about connecting the dots. Thank you.

***Response***

The commenter provides general comments and discussion on the importance of communication. There are no recommended changes based on the comments.



**Title 1. Government and Finances – Chapter 117**  
**BUSINESS COMMITTEE MEETINGS LAW**

4	117.1. Purpose and Policy	8	117.5. Schedule of Meetings
5	117.2. Adoption, Amendment, Repeal	9	117.6. Agenda
6	117.3. Definitions	10	117.7. Additional Responsibilities
7	117.4. Rules of Order	11	117.8. Enforcement

---

**117.1. Purpose and Policy**

117.1-1. *Purpose.* The purpose of this law is to identify how the Oneida Business Committee will carry out its responsibilities. Meetings of the Oneida Business Committee are for the purpose of conducting the business of the Oneida Nation as delegated to the Oneida Business Committee under the Constitution of the Nation.

117.1-2. *Policy.* It is the policy of the Nation that the Oneida Business Committee to be clear and consistent in its actions and to be guided by the responsibilities grounded in the Oneida culture and the Oneida Nation Constitution. It is further the policy that Oneida Business Committee meetings to be open to the public and to have discussions related to the items on the agenda in order to have the widest possible viewpoint, to request and receive technical advice and respect conflicting views.

117.1-3. *Roles and Responsibilities.* The Oneida Business Committee are elected by the membership and are delegated legislative responsibility under Article IV of the Constitution of the Oneida Nation, resolution # GTC-2-15-82, adoption of job descriptions in July of 1990, and a motion at the October 1998 General Tribal Council meeting. The work associated with this legislative responsibility is carried out through various subcommittees such as the LOC, CDPC, and QOL in order to obtain the broadest and most informed discussion. The action regarding this legislative responsibility is taken at a Regular, Special, or Emergency Oneida Business Committee meeting, or where necessary, by e-poll in accordance with approved processes. The goal of this law is to formalize the action of legislative responsibility taking place at Oneida Business Committee meetings and the work of legislative responsibility within subcommittees.

**117.2. Adoption, Amendment, Repeal**

117.2-1. This law was adopted by the Oneida Business Committee by resolution BC -\_\_\_\_\_.

117.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

117.2-3. 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.

117.2-4. 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, the following resolutions/actions are affected as follows.

(a) BC-08-14-91-A (Resolution regarding discussion of individuals is specifically superseded by this law)

117.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**117.3. Definitions**

117.3-1. This section shall govern the definitions of words or phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Board, Committee or Commission" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee with members appointed by the Oneida Business Committee or elected by the Nation's membership.

(b) "Constitution" means the Constitution and By-laws of the Oneida Nation, as amended.

(c) "Nation" means the Oneida Nation.

(d) "Roberts Rules of Order" means a handbook for running meetings effectively and efficiently that sets the guidelines for such issues as leading debates; recognizing speakers; defining the role of the chair and other officers; proposing, seconding, and voting on motions; and writing and amending constitutions and bylaws.

(e) "Tribal Entities" means boards, committees, commissions, corporations, and organizational units of the Nation.

#### **117.4. Rules of Order**

117.4-1. *General.* The Oneida Business Committee shall utilize Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution. The Oneida Business Committee may, by resolution:

(a) amend, modify, or direct that a rule shall not apply; and

(b) adopt Standard Operating Procedures that provide administrative guidance in the application of rules.

117.4-2. *Discussion of Individuals.* There is a need for frank and honest discussions in all meetings of the Oneida Business Committee and other Tribal entities. Such discussions often include personal observations, evaluations, and judgments of other personnel and individuals and that discussions of this nature in open session undermines the morale and trust of employees and members. *Cf. Resolution # BC-08-14-91-A.*

(a) It is the policy of the Oneida Nation that discussion in open and public meetings of the Oneida Business Committee be strictly conducted in an orderly, civil manner avoiding acrimony and ad hoc remarks.

(b) All Tribal members and employees whose performance responsibilities or activities will be discussed at open meetings of the Oneida Business Committee will be given adequate notice to appear at the meeting or that matter must be reserved for executive session.

(c) Should any information be received at any meeting of the Oneida Business Committee that implicates the integrity, honesty, or morality of a Tribal member or employee, such information shall be immediately referred to executive session without action or further discussion.

117.4-3. *Public Comment.*

(a) The Oneida Business Committee meetings are conducted to make decisions regarding the business of the Nation as delegated by the General Tribal Council and the Constitution. However, public comment is a resource for ideas and concerns to be raised and addressed by the Oneida Business Committee.

(b) A Public Comment period is set forth on the agenda which will allow individuals to make comments. All comments are subject to the limitations of 117.4-2 when discussing individuals or groups. The comment period is not a question and answer period, it may be

extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:

1. A request to have the Oneida Business Committee review an issue or action.
2. A comment on an item on the agenda.
3. Praise regarding a Tribal entity, an individual, an employee, a board, committee, commission, program or group.
4. A public notice about an activity or fundraising event.
5. Other comments deemed pertinent by the Chairperson.

(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment period and open the regular business session of the agenda.

(d) Individuals speaking during the comment period are limited to 3 minutes each, which may be extended by request and approval of the Chairperson an additional 2 minutes.

#### **117.5. Schedule of Meetings**

117.5-1. *Annual Schedule*. The Tribal Secretary shall present, on or around August of each year, a proposed schedule for regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt its annual meeting schedule by resolution.

117.5-2. *Reporting Schedule*. The Tribal Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual reporting schedule by resolution.

#### **117.6. Agenda**

117.6-1. *Agenda – Regular Meetings*. The agenda of regular meetings of the Oneida Business Committee shall contain the following sections and the general characteristics of each section is defined.

(a) *I. Call to Order*. The meeting shall be called to order, shall establish the existence of a quorum, and identify reasons why members of the Oneida Business Committee are not present.

(b) *II. Adopt the Agenda*. The agenda for the meeting shall contain necessary subsections so as to identify each item. If there are amendments to the agenda, they should be made during this item, but are not required to be done under this item.

(c) *III. Oath of Office*. Individuals who have been elected or appointed to an office on a board, committee, commission, as a police officer or other employee requiring an oath to be taken, or an agent or member of a corporate board, shall be given the oath of office,

(d) *IV. Public Comment*. This section of the agenda shall be one hour in length and open to any comment presented by an individual; after which time the meeting will be closed to public comment and the Business Committee shall begin the official business on the agenda.

(e) *V. Minutes.* The minutes of each regular, special and emergency meeting of the Oneida Business Committee presented for approval shall be listed in this section.

(f) *VI. Resolutions.* Any resolution approving or adopting an action, supporting or appointing a position or individual, and all other resolutions to be acted upon by the Oneida Business Committee shall be presented in this section.

(g) *VII. Appointments.* Actions regarding appointments to boards, committees, commissions, corporate entities, and other membership on entities shall be taken in this section in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions and other laws, policies and rules.

(h) *VIII. Standing Committees.* Standing committees are entities of the Oneida Business Committee delegated certain responsibilities to act, and whose actions are reported to, the Oneida Business Committee. Such actions may require further approval by the Oneida Business Committee to carry out, such as the Finance Committee meeting minutes, or adoption of laws and rules presented by the Legislative Operating Committee. Items presented in this section shall include minutes, quarterly reports, and other actions presented by the Standing Committee.

(i) *IX. General Tribal Council.* This section shall be utilized to address issues related to scheduling General Tribal Council meetings, accepting and directing action regarding petitions, and approving materials for presentation at General Tribal Council meetings.

(j) *X. Standing Items.* This section shall be utilized to present items which the Oneida Business Committee has determined require a constant, short term, presence on the agenda because repeat actions and/or follow-up actions may be necessary.

(k) *XI. Unfinished Business.* This section shall be utilized when agenda items from prior regular, special, or emergency meetings were unable to be completed.

(l) *XII. Tabled Business.* This section shall be utilized when an agenda item has been specifically tabled from a prior meeting. The item on the agenda shall be clearly labeled as a tabled action and the date of the meeting at which it was tabled shall be noted.

(m) *XIII. New Business.* Any business brought before the Oneida Business Committee that does not otherwise fit in any of the categories listed in this section shall be placed in this section.

(n) *XIV. Travel Reports.* This section shall be used to present reports regarding approved travel required to be presented to or approved by the Oneida Business Committee.

(o) *XV. Travel Requests.* This section shall be used to present requests for travel by an Oneida Business Committee member or where approval by the Oneida Business Committee is required.

(p) *XVI. Reports.* This section shall be used to present quarterly reports as directed by the Oneida Business Committee.

(q) *XVII. Executive Session.* This section shall be used to discuss matters that require confidentiality and meet the requirements set forth in the Open Records and Open Meetings Law for limitations upon access and exceptions. This section may be organized to meet the needs of the Oneida Business Committee.

117.6-2. *Requests to Present Agenda Items.* In general, the following officers and individuals are authorized to present items on the agenda of the Oneida Business Committee.

(a) *Oneida Business Committee Members.* Each member of the Oneida Business Committee is authorized to present items to be placed on the agenda for discussion and/or action.

(b) *Chairpersons of Boards, Committees or Commissions.* Chairpersons, on behalf of boards, committees or commissions, shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports; and

(2) contracts for the entity itself requiring Oneida Business Committee approval.

All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

(c) *Direct Reports.* Employees who are identified as direct reports to the Oneida Business Committee shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports;

(2) contracts of the entity requiring Oneida Business Committee approval; and

(3) requests for actions under the section "XIII. New Business."

(d) *Corporations.* Chairs or Agents on behalf of corporate entities shall be authorized to submit the quarterly reports of the corporation, as directed by the corporate charter to be placed on the agenda. All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

#### **117.7. Additional Responsibilities**

117.7-1. *Sergeant-at-Arms.* The Oneida Business Committee shall designate an individual to serve as the sergeant-at-arms for Oneida Business Committee meetings. The sergeant-at-arms shall oversee the security of the meeting and ensure the safety of all present.

117.7-2. *Oneida Business Committee Meeting Attendees.*

(a) Keeping in line with the Oneida principle of Kalihwi-y% all attendees including the Oneida Business Committee members are expected to treat each other with respect and kindness. Attendees who wish to audio or video record an OBC meeting will be required to register on a sign-up sheet prior to recording in order to make the recording obvious to those in attendance and in order for the OBC to regulate the placement of recording devices. Such recordings are not considered part of the official record. Attendees shall not:

(1) Use profanity, interrupt others, heckle or threaten people, disrespect property or exhibit behavior that disrupts the meeting or endangers the safety of other attendees.

(2) Be under the influence of alcohol or illegal drugs.

(3) Have a weapon on their person in violation of any applicable law.

(4) Take action that violates the laws of the Nation.

(b) *Removal of a Disorderly or Disruptive Person.* If a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 17.7-2(a) and/or 117.4-2(a), the Oneida Business Committee shall inform the person he or she will be removed from the meeting. After a warning, the Chairperson may order the sergeant-at-arms to remove the person from the meeting. No person shall be removed from a public meeting except for an actual breach of the peace committed at the meeting. An individual removed from an Oneida Business Committee meeting shall not be allowed to return for the duration of the meeting.

#### **117.8. Enforcement**

117.8-1. This law shall be enforced according to Robert's Rules of Order.

235 117.8-2. *Enforcement by the OBC Chairperson.* The Chairperson may request members of the  
236 public who do not follow this law be removed from an Oneida Business Committee meeting by  
237 the sergeant-at-arms. The Chairperson's decision is final and is not appealable.  
238 117.8-3. *Enforcement by an OBC Officer or Member.* Officers and Members of the Oneida  
239 Business Committee are authorized, under Robert's Rules of Order, to request a point of order to  
240 direct compliance with Robert's Rules of Order, requirements set forth in this law or  
241 requirements set forth in resolutions or standard operating procedures adopted by the Oneida  
242 Business Committee.  
243



**LEGISLATIVE OPERATING COMMITTEE  
PUBLIC MEETING**

**Business Committee Meetings Law**

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
December 29, 2016 12:15 p.m.

**Present:** Fawn Billie, Jennifer Webster, Tehassi Hill, Brandon Stevens, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jennifer Falck, Rae Skenandore, Ed Delgado, Chaz Wheelock, Dale Wheelock.

**Brandon Stevens:** Okay it is 12:15 we'll call this public meeting to order. The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding this legislative proposal. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room.

Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday January 5, 2017.

In attendance from the LOC is:

Councilwoman Jennifer Webster  
Councilman Tehassi Hill  
Councilwoman Fawn Billie.

We will begin today's public meeting for the Business Committee Meetings law.

This is a proposal to create a Business Committee Meetings law which would set parameters for OBC meetings regarding:

- the discussion of individuals,
- public comments,
- annual OBC scheduling and reporting schedule,
- the OBC agenda,
- requests to present agenda items,
- appointment of a sergeant-at-arms,
- conduct of OBC meeting attendees and audio or video recording,
- removal of disorderly or disruptive persons,
- enforcement of this law.

We'll set a time limit of five minutes per person, let's see, pursuant to section 16.8-3(c) of the Legislative Procedures Act. We'll impose that equally among all persons.

And so did we get any signatures? Anyone sign in for public comment?

So Ed you wanted to, uhh, are you signed in? Okay. So we have one on there? Okay, the one is Ed, so Tehassi will be the time keeper, five minutes. So go ahead and then you can submit your written comments if you have more to say.

**Ed Delgado:** It's just verbal.

**Brandon Stevens:** Okay.

**Ed Delgado:** Uhh, first uhh, the first thing I noticed is, in the analysis it uses the term "attendees" which the people out here, when we're out here I agree we are attendees. But the use of that term in the GTC Meetings law refers to the General Tribal Council as attendees. And there's a big different there between Oneida Tribal members attending BC members where we are attendees versus General Tribal Council in session. And we're referred to in that GTC Meetings law as attendees, which is very contrary to our Constitution. When GTC members are in session that's when we're GTC members and we are not attendees at GTC meetings, we are members of the General Tribal Council. I know this is a meeting to make comment on the BC Meetings law, but I think what or how you put in that resolution, and I know you don't have to bring it to GTC because it's by resolution, and something somewhere says you can do that, but it's very disrespectful to call the General Tribal Council members, those 1,500 hundred people attendees when they are the legislative body. That would be the same as calling you guys attendees when you're in session. You're not attendees, you're the governing body. So that's my main issue. But, umm, you don't call them attendees in this, so uhh I would hope that someday you change that resolution creating the GTC Meetings law. Thankfully, Tina doesn't really follow that meeting, that GTC Meetings law which allows security to remove attendees of General Tribal Council. That would be like security walking around and removing one of you guys at the, uh, because they're in the mood or they think you're doing something wrong. Just like you shouldn't be removed by a security guard or sergeant-at-arms, neither should uhh General Tribal Council.

Uhh, I was somewhat confused on the reading of this because the analysis is uhh a little bit different than what's in the law. Umm, I read the analysis and I was all upset but the law, the proposed law itself, I's somewhat upset but not that upset. Umm, I don't, I would like to umm state my opposition to the part where you would have, at the beginning of the meeting or somewhere in the meeting, the only time that, uhh, attendees may speak. It would seem to me that everyone who runs for office, you know, should enjoy that and value that comment period. When boards, committees and commissions and tribal entities come up here there is lively discussion. That can be over burdensome sometimes, when it goes on and on and on. I think



that's what you are trying to address. But I think there's a better way to address it than uhh putting people who want to comment in one section of the agenda and then they pretty much as if they, they're done and they don't speak anymore. Umm that's not very constituent friendly.

Uhh also, when it came to the sergeant-at-arms- in the analysis it says that the OBC appoints a sergeant-at-arms, but normally it would seem to me that it would be the chairperson who appoints the sergeant-at-arms. And that sergeant-at-arms would be, you know, upon the request of the chair, to be able to remove someone for disturbing the peace, which I agree with. So, those are my comments. Thank you.

**Brandon Stevens:** Okay. I just, Ed, I'd like to ask you a question, umm as a result, because we are trying to address the, you know the kind of, extending period of commenting. How would you feel it would be best addressed, because it's difficult? We are trying to address it by putting it, coming prepared, at the beginning of the meeting you can comment on any part of the agenda you wish. So what we're trying to find is that healthy medium to say what would be the best way to go about it then.

**Ed Delgado:** I think you need to better control of the discussion. And there was a time when someone goes on and on and on, you also, I believe you need a better control of when you guys say, uhh when you want to call for a vote. I forget what the terminology is, call for the question I guess, or something like that. Better control, but better use of that and control of keeping people on an agenda, when you're up here three or four times on the one issue, that's where it causes the holdup.

**Brandon Stevens:** Okay. Thank you. Umm, I think next we have Chaz signed up.

**Chaz Wheelock:** Well Good Morning, how are you today? Pleasure to be here. I think, what I see is an overall opportunity in all of this, without reading all of this, I about communications between the leadership and the membership. And I assume you're going to ask me the same question you just asked Ed, umm and I am a advocate for two things. One, is a systematic review of the whole thing. How do we communicate now is a part of this, obviously something isn't working. And how do we communicate better. But ultimately the goal is how do we want to be communicated with, and then how do we want to communicate. And the role you have as nine elected officials, I ain't elected to be a GTC member, I was born into it, right or wrong, whether you agree or not. I was born into that. But then also there is a relationship between that being born into that that goes way beyond what's in our, our stuff. You know it's a Oneida Nation member, a big communication to all the members no matter where they live.

So I think there's an opportunity here, and I'll say districts as a way. Right now we have a big forum, 1,500 hundred Oneidas, should be applauding it. Lovely, beautiful. And yet it's not a forum where everybody can communicate in. Public speaking, we've lost that oratory of 50 chiefs around the old, around the old fire. It's a different world now a days. From what we've gone through, or what we've been educated to, whatever it might be that impacts on how we

articulate things, almost like we need to do a small condolence. Like you know, are we listening? Are we speaking clearly? You know, and are we seeing what needs to be seen? So I think there's opportunity in there. I think the office came up here years ago and had a approach towards communication. And then because of politics and various things that was never retained. Was it institutionalized? I don't think so. But if you brought the two directors up here you might get a different response from them. And they couldn't attend today, not that if they would, I don't know. But that was some old work that was done that should fit into the opportunity to communicate better. But then again the small condolence is not for leadership, but for us out here too, membership. Do we go through that anymore? Do we speak clearly to each other? Do I just get loud? Do you hear me when I get loud? Do I whisper? You know, what's the style people have of communicating. It all gets into a lot of different dynamics of their personal history and hat they've seen. So, I just think there's an opportunity here with that. Umm, but there's a bit of healing that needs to go on as well. I think, that goes into communications. You know, we didn't get a divorce yet, but we're separated sometimes. You know, and the petition is kinda that divorce to me, it's a symbol of, damn, nobody listening, what am I going to do? So I think there is an opportunity here to really address that systematically. That what is our communication system in Oneida right now? But then, historically what has it been and did it work. Some people say, well districts and GTC structuring, and people say well then you talk to people like hypothetically, the Yakamas who have a GTC and hypothetically does it work for them? Yes or no? Umm, but what works here, that's up to us to determine that. We can look at all kinds of resources, we can do all kinds of research collecting knowledge, but then it's up to us here to connect the dots. Make sure it functions, make sure it works. And if it doesn't work, be able to speak up loudly and clearly, but not through a petition that costs us a quarter million approximately now. There's a better way to spend a quarter million on communications, I think, than having a GTC petition on communications. Which can be drafted if need be, but I think we want to avoid that.

So my bottom line point is I think there is a golden opportunity here to really address not only what we are saying, but how we are saying it. And then not only on the membership side, but what we hear, but then what do we do with it once we hear something. And if it's concerning enough to us to do a petition then I guess that's a right we have in our system. But the more and more laws we make it seems like we get more and more lawless, ironically. I think there's a great law I think somebody said. It's not a good law, it's a great law. There's a reason they call it a great law, not an okay law, okay. It has guidance for us. And that was given to us by whom? You know, all respects, not by Brandon, or Tehassi you know, or Jennifer or Fawn. It was given to us by another power. So where those things fit in now as we try and restructure – I got my time limit right? I didn't bring my watch [**Tehassi Hill:** You have 20 seconds.] I got 20 seconds left? Okay, so there is a golden opportunity to do this. If you don't do it and we meander through piecemeal, and a part of it is putting the pieces together, this is, I think this is one piece, not knowing all the details, but there is many pieces to put together. That's the point about

connecting the dots. Thank you.

**Brandon Stevens:** Thank you Chaz. Alright, we have Dale.

**Dale Wheelock:** Good afternoon. I got a chance to briefly read through this and there were some issues that caused me a little concern. On page 2 of 3, line item number 27, it says discussion of individuals. And that one, I am concerned, it says, “any information received, that implicates the integrity, honesty or morality of a Tribal member or employee will be forwarded immediately to executive session. I think that was stemming from uhh, when people come to the council and they make a presentation about their situation. And I bring it in the context of the housing authority where at great lengths the person was evicted and they brought in their side of the issue. I think you’re trying to address that. That item should have been put into executive session, because from the Housing Authority’s side I looked at it as, well you got a chance to swing the bat up there at us but we didn’t get a chance to swing back. You know? There’s reasons why the person was terminated. Legitimate reasons. And it went to tribal court and they made their decision and we’re following the court’s decision. So information such as that will save you a lot of time, if when that comes up on the agenda you immediately put it into executive session. Or have executive session beforehand. So that can be aired out to a third party and they can listen to the context.

The other issue I have is uhh line 39. Uhh, “public comments will not be considered during any other portion of the meeting” and then it refers to section such and such. And this is similar to the Menominee’s. Well, we’re not the Menominees. Also, is this getting to the issue of freedom of speech? Because things that show up on the agenda, you can read about it and make your public comments beforehand like it is proposed in here, but what happens when an item comes up, like say in a director’s report, that creates a question by the people in the audience? Do they have the right to bring that issue up as discussion? Or do they lose that according to this? Because they had an opportunity at the beginning of the meeting to comment. I’m saying there will be new information that comes up that they want answers to, or they want to discuss more detail. So those were the two major items.

Ohh let’s see, ohh, wait a minute, there is one more that caught my attention. On page 5, under 224 it refers to removal of disorderly or disruptive persons. Uhh, who determines that? Is that the chairperson that makes that determination? Or would it be the council themselves? And, I guess that’s a two part question. If it’s the council could the council remove another council member because they’re disruptive in their responses or their behavior? Because in the past I’ve seen that happen too. I think back to, I think 2013, there was dialogue between the chairperson and the treasurer, no secretary at the time, and it was on the internet, that’s where I saw it and it didn’t look nice for the public to see those kind of comments going on between, you know. I kind of think about city council, it can get pretty disruptive too but ours are a little bit more than that.

So there are just clarification on can a council member themselves be removed by the

councilmembers for disrupting the meeting. And that's just all I had to offer.

**Brandon Stevens:** Alright, thank you. Is there anyone else wishing to provide testimony regarding the Business Committee Meetings law?

**Fawn Billie:** Can I say something?

**Brandon Stevens:** Yeah, if you guys, yeah.

**Fawn Billie:** Just following up to what Dale was saying about the discussion of individuals, I think we should also maybe have something in there where we don't even bring it up, or we just, kinda just call point of order. I think that's what we're currently doing. But that's not stated in here so maybe when an individual's name is brought up, or director, or somebody that's not present, I think we should also maybe add something in there.

**Jennifer Webster:** May I respond? We can call point of order all we want but ultimately it's up to the chair to recognize us trying to stop the discussion of an individual.

**Brandon Stevens:** Okay, so anything else? Any additions? Okay that will conclude our public meeting comment period, verbal comment period. Written comments may be submitted until close of business on Thursday, January 5, 2017.

So next we will compile all the public meeting comments and we will look at possible suggestions to, and answers to the public meeting comments. And then we will bring that forward to a meeting and discuss on policy issues. If there were something we could change, want to change, agree with, and then we will move it forward that way and then send it back for the language, possible language changes and the legislative analysis, and then package it to the Business Committee for their consideration. So that's kind of the general process that will go. And you know, if there is any other big arching issues that are still unaddressed or still other possibilities in commenting on the direction of this legislation. So this is the formal commenting period.

We will close this at 12:36. And thank you everyone for your comments.

**-End of Meeting-**

Draft 5  
2016 11 16

**Title 1. Government and Finances – Chapter 117**  
**BUSINESS COMMITTEE MEETINGS LAW**

4	117.1. Purpose and Policy	8	117.5. Schedule of Meetings
5	117.2. Adoption, Amendment, Repeal	9	117.6. Agenda
6	117.3. Definitions	10	117.7. Additional Responsibilities
7	117.4. Rules of Order	11	117.8. Enforcement

**117.1. Purpose and Policy**

117.1-1. *Purpose.* The purpose of this law is to identify how the Oneida Business Committee will carry out its responsibilities. Meetings of the Oneida Business Committee are for the purpose of conducting the business of the Oneida Nation as delegated to the Oneida Business Committee under the Constitution of the Nation.

117.1-2. *Policy.* It is the policy of the Nation that the Oneida Business Committee to be clear and consistent in its actions and to be guided by the responsibilities grounded in the Oneida culture and the Oneida Nation Constitution. It is further the policy that Oneida Business Committee meetings to be open to the public and to have discussions related to the items on the agenda in order to have the widest possible viewpoint, to request and receive technical advice and respect conflicting views.

117.1-3. *Roles and Responsibilities.* The Oneida Business Committee are elected by the membership and are delegated legislative responsibility under Article IV of the Constitution of the Oneida Nation, resolution # GTC-2-15-82, adoption of job descriptions in July of 1990, and a motion at the October 1998 General Tribal Council meeting. The work associated with this legislative responsibility is carried out through various subcommittees such as the LOC, CDPC, and QOL in order to obtain the broadest and most informed discussion. The action regarding this legislative responsibility is taken at a Regular, Special, or Emergency Oneida Business Committee meeting, or where necessary, by e-poll in accordance with approved processes. The goal of this law is to formalize the action of legislative responsibility taking place at Oneida Business Committee meetings and the work of legislative responsibility within subcommittees.

**117.2. Adoption, Amendment, Repeal**

117.2-1. This law was adopted by the Oneida Business Committee by resolution BC - \_\_\_\_\_.

117.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

117.2-3. 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.

117.2-4. 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, the following resolutions/actions are affected as follows.

- (a) BC-08-14-91-A (Resolution regarding discussion of individuals is specifically superseded by this law)

117.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**117.3. Definitions**

Draft 5  
2016 11 16

117.3-1. This section shall govern the definitions of words or phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Board, Committee or Commission" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee with members appointed by the Oneida Business Committee or elected by the Nation's membership.

(b) "Constitution" means the Constitution and By-laws of the Oneida Nation, as amended.

(c) "Nation" means the Oneida Nation.

(d) "Roberts Rules of Order" means a handbook for running meetings effectively and efficiently that sets the guidelines for such issues as leading debates; recognizing speakers; defining the role of the chair and other officers; proposing, seconding, and voting on motions; and writing and amending constitutions and bylaws.

(e) "Tribal Entities" means boards, committees, commissions, corporations, and organizational units of the Nation.

#### 117.4. Rules of Order

117.4-1. *General.* The Oneida Business Committee shall utilize Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution. The Oneida Business Committee may, by resolution:

(a) amend, modify, or direct that a rule shall not apply; and

(b) adopt Standard Operating Procedures that provide administrative guidance in the application of rules.

117.4-2. *Discussion of Individuals.* There is a need for frank and honest discussions in all meetings of the Oneida Business Committee and other Tribal entities. Such discussions often include personal observations, evaluations, and judgments of other personnel and individuals and that discussions of this nature in open session undermines the morale and trust of employees and members. *Cf. Resolution # BC-08-14-91-A.*

(a) It is the policy of the Oneida Nation that discussion in open and public meetings of the Oneida Business Committee be strictly conducted in an orderly, civil manner avoiding acrimony and ad hoc remarks.

(b) All Tribal members and employees whose performance responsibilities or activities will be discussed at open meetings of the Oneida Business Committee will be given adequate notice to appear at the meeting or that matter must be reserved for executive session.

(c) Should any information be received at any meeting of the Oneida Business Committee that implicates the integrity, honesty, or morality of a Tribal member or employee, such information shall be immediately referred to executive session without action or further discussion.

#### 117.4-3. *Public Comment.*

(a) The Oneida Business Committee meetings are conducted to make decisions regarding the business of the Nation as delegated by the General Tribal Council and the Constitution. However, public comment is a resource for ideas and concerns to be raised and addressed by the Oneida Business Committee.

(b) A Public Comment period is set forth on the agenda which will allow individuals to make comments. All comments are subject to the limitations of 117.4-2 when discussing individuals or groups. The comment period is not a question and answer period, it may be

**Comment [LMS1]:** "Tribal" and "Tribe" have been removed throughout other laws. It is only referenced in this law in the context. Alternate language should be considered for uniformity. See Line 74, Line 104, and Line 121.

**Comment [LMS2]:** Since refers to corporations chartered by the Nation, it should be defined as "board, committee, and commission" is Line 53. Unless each reference to "corporation" throughout is followed by "of the Nation". See Line 201 and Line 202.

**Comment [LMS3]:** The term "organizational units" is used in this definition only. In other areas of the law "programs" are referenced. Verbiage should be consistent and perhaps a definition should be added.

**Comment [LMS4]:** 1) Add definition of "tribal member" (or whatever uniform term has been determined which does not include 'tribal'). See Line 81 and Line 86.  
2) Add definition of "employee" to specify employees of the Nation.  
3) Add definition of "Direct Report" – see BC Resolution 11-26-14-C  
4) Add definition of "open session" and "executive session" or reference "as defined by the Open Records and Open Meetings Law."

**Comment [LMS5]:** Correct language. Could be interpreted that "Tribal members" have "performance responsibilities or activities"

**Comment [LMS6]:** "groups" are not included in 117.4-2.



Draft 5  
2016 11 16

extended upon request of any individual during the comment period and such request must be approved by the Oneida Business Committee by majority vote identifying the amount of time the comment period is extended. No action is required to accept or otherwise take action regarding a comment being made. Comments may be any of the following:

1. A request to have the Oneida Business Committee review an issue or action.
2. A comment on an item on the agenda.
3. Praise regarding a Tribal entity, an individual, an employee, a board, committee, commission, program or group.
4. A public notice about an activity or fundraising event.
5. Other comments deemed pertinent by the Chairperson.

(c) Public comments shall not be entertained on any other portion of the agenda. Upon conclusion of the public comment period, the Oneida Business Committee shall, by motion, close the public comment.

(d) Individuals speaking during the comment period are limited to 3 minutes each.

## 117.5. Schedule of Meetings

117.5-1. *Annual Schedule*. The Tribal Secretary shall present, on or around August of each year, a proposed schedule for regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt its annual meeting schedule by resolution.

117.5-2. *Quarterly Reporting Schedule*. The Tribal Secretary shall present, on or around August of each year, a proposed schedule for presentation of quarterly reports by Tribal entities at regular meetings of the Oneida Business Committee in a resolution for action by the Oneida Business Committee. The Oneida Business Committee shall adopt the annual quarterly reporting schedule by resolution.

## 117.6. Agenda

117.6-1. *Agenda – Regular Meetings*. The agenda of meetings of the Oneida Business Committee shall contain the following sections and the general characteristics of each section are defined.

(a) *I. Call to Order*. The meeting shall be called to order, shall establish the existence of a quorum, and identify reasons why members of the Oneida Business Committee are not present.

(b) *II. Adopt the Agenda*. The agenda for the meeting shall contain necessary subsections so as to identify each item. If there are amendments to the agenda, they should be made during this section, but are not required to be done under this section.

(c) *III. Oath of Office*. Individuals who have been elected or appointed to an office on a board, committee, commission, as a police officer or other employee requiring an oath to be taken, shall be given the oath of office.

(d) *IV. Public Comment*. This section of the agenda shall be one hour in length and open to any comment in accordance with 117.4-3.

(e) *V. Minutes*. The minutes of each regular, special and emergency meeting of the Oneida Business Committee presented for approval shall be listed in this section.

(f) *VI. Resolutions*. All resolutions to be adopted by the Oneida Business Committee shall be presented in this section.

**Comment [LMS7]:** See comment #4. Does this refer to employees of the Nation?

**Comment [LMS8]:** Delete as "board, committee, and commission" is included in the definition of "Tribal Entity"

**Comment [LMS9]:** See comment #3. Does this refer to an "organizational unit"?

**Comment [LMS10]:** Language should be included to identify this refers to the person chairing the meeting whether that be the Oneida Nation Chair or Oneida Nation Vice-Chair. See Line 113, Line 227, Line 235, and Line 237.

**Comment [LMS11]:** As written, the BC would need to do both actions 1) close period and 2) open regular business session. If both actions are not completed, what happens? Could the actions take ...

**Deleted:** period and open the regular busine...

**Comment [LMS12]:** Correct to "three (3)".

**Comment [LMS13]:** If the goal is to set a tim...

**Deleted:** , which may be extended by request ...

**Comment [LMS14]:** Add a mechanism by wh...

**Comment [LMS15]:** Change to "Oneida Nati...

**Comment [LMS16]:** Insert "Quarterly"

**Comment [LMS17]:** Insert "quarterly"

**Comment [LMS18]:** Should the reporting ...

**Comment [LMS19]:** The order of business ...

**Comment [LMS20]:** See comment #19

**Deleted:** regular

**Comment [LMS21]:** "are" not "is"

**Deleted:** is

**Comment [LMS22]:** If the intent is to set the ...

**Comment [LMS23]:** "The meeting" cannot ...

**Comment [LMS24]:** "section" not "item"

**Comment [LMS25]:** "section" not "item"

**Deleted:** item

**Deleted:** item

**Comment [LMS26]:** Delete as agents or ...

**Deleted:** , or an agent or member of a corpor...

**Comment [LMS27]:** This language implies th...

**Comment [LMS28]:** Language here is not ...

**Deleted:** presented by an individual; after wh...

**Deleted:**

**Comment [LMS29]:** If "all resolutions" are ...

**Comment [LMS30]:** Resolution are "adopted" ...

**Deleted:** ny resolution approving or adopting ...

**Deleted:** other

**Deleted:** acted upon

Draft 5  
2016 11 16

(g) *VII. Appointments.* Actions regarding appointments to boards, committees, commissions, corporate entities, and other membership on entities shall be taken in this section in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions and other laws, policies and rules.

**Comment [LMS31]:** Unclear what this is referring to.

(h) *VIII. Standing Committees.* Standing committees are entities of the Oneida Business Committee delegated certain responsibilities to act, and whose actions are reported to, the Oneida Business Committee. Such actions may require further approval by the Oneida Business Committee to carry out, such as the Finance Committee meeting minutes, or adoption of laws and rules presented by the Legislative Operating Committee. Items presented in this section shall include minutes, quarterly reports, and other actions presented by the Standing Committee.

**Comment [LMS32]:** Should the name be included here? Current draft lists name of this policy as "Governance of Boards, Committees and Commissions".

(i) *IX. General Tribal Council.* This section shall be utilized to address issues related to General Tribal Council meetings, accepting and directing action regarding petitions, and approving materials for presentation at General Tribal Council meetings.

**Comment [LMS33]:** Section should be moved before the section entitled "Executive Session". It should be noted this section is not open to the public, but for Tribal members only.

(j) *X. Standing Items.* This section shall be utilized to present items which the Oneida Business Committee has determined require a constant, short term, presence on the agenda because repeat actions and/or follow-up actions may be necessary.

**Comment [LMS34]:** "such as scheduling." The section should include all GTC related items, not just those related to scheduling.

(k) *XI. Unfinished Business.* This section shall be utilized when agenda items from prior regular, special, or emergency meetings were unable to be completed.

**Deleted:** scheduling

(l) *XII. Tabled Business.* This section shall be utilized when an agenda item has been specifically tabled from a prior meeting. The item on the agenda shall be clearly labeled as a tabled action and the date of the meeting at which it was tabled shall be noted.

**Comment [LMS35]:** See comment #19

(m) *XIII. New Business.* Any business brought before the Oneida Business Committee that does not otherwise fit in any of the categories listed in this section shall be placed in this section.

**Comment [LMS36]:** Language is confusing because it refers to "section" as in section of the law and "section" as in the section of the order of business for the agenda.

(n) *XIV. Travel Reports.* This section shall be used to present reports regarding approved travel required to be presented to or approved by the Oneida Business Committee.

(o) *XV. Travel Requests.* This section shall be used to present requests for travel by an Oneida Business Committee member or where approval by the Oneida Business Committee is required.

(p) *XVI. Reports.* This section shall be used to present quarterly reports as directed by the Oneida Business Committee.

(q) *XVII. Executive Session.* This section shall be used to discuss matters that require confidentiality and meet the requirements set forth in the Open Records and Open Meetings Law for limitations upon access and exceptions. This section may be organized to meet the needs of the Oneida Business Committee.

**Comment [LMS37]:** General comment on uniformity for Lines 130-184: language is inconsistent. Examples:  
Subsections (i)-(l): "This section shall be utilized..."  
Subsections (n)-(q): "This section shall be used..."  
Other sections include variations such as "...shall be taken in this section...", "...under this item.", "This section of the agenda...", and "...shall be listed in this section."

117.6-2. *Requests to Present Agenda Items.* In general, the following officers and individuals are authorized to present items on the agenda of the Oneida Business Committee.

(a) *Oneida Business Committee Members.* Each member of the Oneida Business Committee is authorized to present items to be placed on the agenda for discussion and/or action.

(b) *Chairpersons of Boards, Committees or Commissions.* Chairpersons, on behalf of boards, committees or commissions, shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports; and



Draft 5  
2016 11 16

(2) contracts for the entity itself requiring Oneida Business Committee approval.  
All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

(c) *Direct Reports*. Employees who are identified as direct reports to the Oneida Business Committee shall be authorized to submit the following to be placed on the agenda:

(1) quarterly reports;

(2) contracts of the entity requiring Oneida Business Committee approval; and

(3) requests for actions under the section "XIII. New Business."

(d) *Corporations*. Chairs or Agents on behalf of corporate entities shall be authorized to submit the quarterly reports of the corporation, as directed by the corporate charter to be placed on the agenda. All other items must be placed on the agenda by the Oneida Business Committee member assigned as a liaison.

### 117.7. Additional Responsibilities

117.7-1. *Sergeant-at-Arms*. The Oneida Business Committee shall designate an individual to serve as the sergeant-at-arms for Oneida Business Committee meetings. The sergeant-at-arms shall oversee the security of the meeting and ensure the safety of all present.

117.7-2. *Oneida Business Committee Meeting Attendees*.

(a) Keeping in line with the Oneida principle of Kalihwi-ya% all attendees including the Oneida Business Committee members are expected to treat each other with respect and kindness. Attendees who wish to audio or video record an OBC meeting will be required to register on a sign-up sheet prior to recording in order to make the recording obvious to those in attendance and in order for the OBC to regulate the placement of recording devices. Such recordings are not considered part of the official record. Attendees shall not:

(1) Use profanity, interrupt others, heckle or threaten people, disrespect property or exhibit behavior that disrupts the meeting or endangers the safety of other attendees.

(2) Be under the influence of alcohol or illegal drugs.

(3) Have a weapon on their person in violation of any applicable law.

(4) Take action that violates the laws of the Nation.

(b) *Removal of a Disorderly or Disruptive Individual*. No individual shall be removed from a public meeting except for a breach of the peace committed at the meeting. An individual removed from an Oneida Business Committee meeting shall not be allowed to return for the duration of the meeting.

### 117.8. Enforcement

117.8-1. This law shall be enforced according to Robert's Rules of Order.

117.8-2. *Enforcement by the OBC Chairperson*.

117.8-3. *Enforcement by an OBC Officer or Member*. Officers and Members of the Oneida Business Committee are authorized, under Robert's Rules of Order, to request a point of order to direct compliance with Robert's Rules of Order, requirements set forth in this law or requirements set forth in resolutions or standard operating procedures adopted by the Oneida Business Committee.

**Comment [LMS38]:** Are there other laws which reference OBC liaisons? What if the practice is discontinued? Suggest use of broader language. See Line 205.

**Comment [LMS39]:** Some corporation have presidents. Language should be broader to include all, or ensure all potential titles are included in the law.

**Comment [LMS40]:** Not all corporations have a charter. OTIE, for example, has an Operating Agreement.

**Comment [LMS41]:** Change to "Individual"

**Comment [LMS42]:**

1) Require the OBC to notify the public at the public comment period that if a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 17.7-2(a) and/or 117.4-2(a), they shall be removed in accordance with section 117.7-2.(b). (see comment #14).

2) RRO, Part II, Art. XIII, Rule 73: "73. Right of an Assembly to Eject any one from its Place of Meeting. Every deliberative assembly has the right to decide who may be present during its session; and when the assembly, either by a rule or by a vote, decides that a certain person shall not remain in the room, it is the duty of the chairman to enforce the rule of order, using whatever force is necessary to eject the party."

The OBC decides if a person is to be removed (adding language about final decision & appeal) and the Chair enforces this decision (language removed to comment #44). Suggest revising the language to make this distinction clear such as:

"At the decision of the Oneida Business Committee, the Chairperson shall request the sergeant-at-arms to remove from an Oneida Business Committee ...

**Comment [LMS43]:** Change to "individual"

**Deleted:** Person

**Deleted:** If a meeting is willfully interrupted by a person and the meeting cannot proceed forward or the person violates section 17.7-2(a) and/or 117.4-2(a), the Oneida Business Committee sh...

**Deleted:** person

**Comment [LMS44]:** This is the first reference to "public meeting". The term "public" is used to in the policy statement and in Line 78 to restate the policy statement. Referring to meetings of the ...

**Comment [LMS45]:** This adjective is not needed.

**Deleted:** n actual

**Comment [LMS46]:** :RRO, Part II, Art. XIII, Rule 73: "73. Right of an Assembly to Eject any one from its Place of Meeting. Every deliberative assembly has the right to decide who may be pres...

**Deleted:** The Chairperson may request members of the public who do not follow this law be removed from an Oneida Business Committee meeting by ...

**Comment [LMS47]:** Insert space

**Public Hearing Comment Regarding Business Committee Meeting Law**

**By Oneida Tribal Member Ed Delgado** (Note: This written comment is in addition to verbal testimony given at the December 29, 2016 Public Meeting)

Comment 1. The term "attendees" needs to be defined. It is interesting that the same term is used in General Tribal Council Meeting Law, however, the term attendee in one instance is used to define the governing body of the Oneida Nation (GTC Meeting Law), and in the other instance the term is used to define persons merely in attendance with no governing authority (GC Meeting Law).

Comment 2. It appears that by limiting public comment at BC meetings to one segment of the agenda, that the intent of the proposed Law is to diminish discussion regarding items that might be relevant to members of the Oneida Nation, or at least relevant to those who might take time out of their week to participate. In addition, the limiting of public comment to one segment of the agenda seems to send a message to the people that their participation in BC meetings is not really wanted.

~~Comment 3.~~

*See next page*

### **Public Hearing Comments by Ed Delgado Continued:**

Comment 3. I believe Section 117.1-3 may be worded wrong. The Oneida Business Committee is one body, and therefore, The Oneida Business Committee is elected...

Or you may say "Oneida Business Committee members are elected...."

In addition, the OBC is not exactly elected by the Oneida Nation membership. I think the Constitution says that the OBC is elected by the "Voters of the Nation," Not all members vote.

Comment 4. If a comment period is created under the proposed law (bad idea), the extending the Comment Period time allotted should be a decision of the Chair with the OBC having the power to override the decision by majority vote (see 117.4-3(b)).

Comment 5. Section 117.6-2 says "In general, the following officers and individuals are authorized to present items on the agenda of the Oneida Business Committee." My question is, what is meant by "officers?"

Comment 6. The Chair should appoint the Sargent at Arms. Also under 117.7-2(a), it is hard to legislate kindness and I don't believe that the Kalihwiyo is intended to regulate certain behaviors that require kindness, but other behaviors can be prohibited by law. Remember, Handsome Lake was told by a higher being to stop killing people he believed to be witches.

Comment 7. How are you going to regulate being under the influence of illegal drugs? Blood and urine tests at BC meetings. That would be weird. Also, the Chair should be the only person to order the removal of someone at the meeting, perhaps at the recommendation of OBC member. The decision to remove or not to remove should perhaps be appealable by majority OBC vote.

Comment 8. Persons recording a meeting, audio or video, should only be required to register or sign in if their equipment creates a disturbance with light, noise or location. Otherwise a person recording the meeting in whole or in part with their phone or other small unnoticeable device should not have to register or sign in. Public meetings with today's technology should use that technology to enhance transparency.

Comment 9. Section 117.8-3 identifies the OBC as "Officer or Member." Officers are members as are Councilmembers. Also, the proposed law uses the term "officer" under an earlier (117.6-2) the term officer is used but I have asked what is meant by the term?. Maybe it would be clearer to simply say "Enforcement. Any Oneida Business Committee member is authorized....."

THANK YOU



Legislative Operating Committee  
March 1, 2017

## Petition: Benton – Pre-Employment Drug Testing

<b>Submission Date:</b> 9/17/14	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Fawn Billie	<b>Emergency Enacted:</b> n/a <b>Expires:</b> n/a

**Summary:** *To change pre-employment drug testing orders and reduce sensitivity to marijuana because tests for THC aren't effective measurements for potential employee performance, nor habitual drug use; and THC stays in the body longer than opiates, alcohol, and other drugs.*

**1/13/17 OBC:** Motion by Lisa Summers to accept the verified petition from Sherrole Benton regarding a request to change pre-employment drug testing for marijuana use; to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed; and to direct the Law, Finance, and Legislative Reference Offices to submit their analyses to the Tribal Secretary's Office within sixty (60) days, and that a progress report be submitted in forty-five (45) days, seconded by Fawn Billie. Motion carried unanimously.

**2/1/17 LOC:** 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.

**Next Steps:**

- Approve the 45 Day Progress Report for Petition: Benton Pre-Employment Drug Testing and forward to the Oneida Business Committee for consideration.



Oneida Nation  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



**TO:** Oneida Business Committee  
**FROM:** Brandon Stevens, LOC Chairperson *BS*  
**DATE:** March 8, 2017  
**RE:** Petition: Benton – Pre-Employment Drug Testing

---

On January 13, 2016, the Oneida Business Committee (OBC) accepted the verified petition submitted by Sherrole Benton regarding pre-employment drug testing and requested that the Legislative Reference Office (LRO) complete a legislative analysis within sixty (60) days and that a progress report be submitted within forty-five (45) days. This memorandum serves as the requested progress report.

The LRO has completed research regarding the Petition and will present the completed legislative analysis to the OBC within the sixty (60) day timeframe as directed.

**Jennifer A. Falck**

**From:** Jennifer A. Falck  
**Sent:** Wednesday, February 22, 2017 10:48 AM  
**To:** Brandon L. Yellowbird-Stevens; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco; Jennifer A. Webster  
**Subject:** E-POLL

**Good Morning-**

Currently, there are 2 public meetings scheduled for March 2: **Landlord-Tenant Amendments and Drug & Alcohol Free Workplace Amendments (DAFWP)**.

At this morning's BC Meeting, there was some discussion about cancelling the March 2 Landlord-Tenant public meeting, because changes may be forthcoming based on a second work meeting regarding the repeal of Resolution 12-23-09-A. Cancelling the public meeting should prevent the need for a second public meeting down the line. The DAFWP public meeting can happen as planned.

Please reply with either an "Approve" or "Disapprove" with regard to **cancelling the March 2 Landlord-Tenant public meeting. Thank You-**

**From:** David P. Jordan  
**Sent:** Wednesday, February 22, 2017 11:00 AM  
**To:** Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; Leyne C. Orosco; Jennifer A. Webster  
**Subject:** RE: E-POLL

**approve**

**From:** Fawn J. Billie  
**Sent:** Wednesday, February 22, 2017 11:02 AM  
**To:** David P. Jordan; Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Ronald W. Hill; Danelle A. Wilson; Cathy L. Bachhuber; Leyne C. Orosco; Jennifer A. Webster  
**Subject:** RE: E-POLL

**Approve**

**From:** Jennifer A. Webster  
**Sent:** Wednesday, February 22, 2017 11:10 AM  
**To:** Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco  
**Subject:** RE: E-POLL

**Approve**

**From:** Ronald W. Hill  
**Sent:** Wednesday, February 22, 2017 11:12 AM  
**To:** Jennifer A. Falck; Brandon L. Yellowbird-Stevens; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco; Jennifer A. Webster  
**Subject:** RE: E-POLL

**Support cancelling public meeting.**

**From:** Brandon L. Yellowbird-Stevens  
**Sent:** Wednesday, February 22, 2017 11:13 AM  
**To:** Jennifer A. Falck; Ronald W. Hill; Danelle A. Wilson; Fawn J. Billie; Cathy L. Bachhuber; David P. Jordan; Leyne C. Orosco; Jennifer A. Webster  
**Subject:** RE: E-POLL

**Support**

# 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						

	Sun	Mon	Tue	Wed	Thu	Fri	Sat
	Feb 26	27	28	Mar 1	2	3	4
Feb 26 - Mar 4				9:00am 2:00pm FW: Administrativ 9:00am 2:00pm FW: LOC Meeting (BC_ 2:00pm 3:00pm GTC Meeting	12:15pm 2:15p m Public Meetings for the Drug and Alcohol Free Workplace Policy and the Landlord		
	5	6	7	8	9	10	11
Mar 5 - 11				8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert Hill Center)			
	12	13	14	15	16	17	18
Mar 12 - 18			3:00pm 4:00pm FW: LOC Prep Meeting (BC_Conf_Ro om) - Jennifer A. Falck	9:00am 2:00pm FW: LOC Meeting (BC_Conf_Ro om) 9:00am 2:00pm LOC Meeting (BC_Conf_Ro om) - LOC			
	19	20	21	22	23	24	25
Mar 19 - 25	GTC Meeting (F			8:30am 12:00a m BC Meeting (Business Committee Conference Room, 2nd Floor Norber			
	26	27	28	29	30	31	Apr 1
Mar 26 - Apr 1		GTC Meeting					

# April 2017

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

Sun							Mon							Tue							Wed							Thu							Fri							Sat						
Mar 26							27							28							29							30							31							Apr 1						
Mar 26 - Apr 1																																																
2							3							4							5							6							7							8						
Apr 2 - 8														10:00am 12:00pm FW: Sanctions & 3:00pm 4:00pm FW: LOC Prep Meeting (BC_							9:00am 2:00pm FW: LOC Meeting (BC_Conf_Room) - Taniquelle J.																											
9							10							11							12							13							14							15						
Apr 9 - 15																					8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert																											
16							17							18							19							20							21							22						
Apr 16 - 22														3:00pm 4:00pm LOC prep							9:00am 2:00pm FW: LOC Meeting (BC_ 9:00am 2:00pm LOC Meeting (BC_Conf_Ro																											
23							24							25							26							27							28							29						
Apr 23 - 29																					8:30am 12:00am BC Meeting (Business Committee Conference																											
30							May 1							2							3							4							5							6						
Apr 30 - May 6																																																