

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
Jennifer Webster, Councilmember

LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

October 15, 2014 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. October 1, 2014 LOC Meeting Minutes
- III. Current Business**
 - 1. Public Use of Tribal Land Amendments
 - 2. Rules of Appellate Procedure Amendments
 - 3. Petition: Hold a GTC Meeting to Address Tribal Election Issues
- IV. New Submissions**
 - 1. Sanctions and Penalties for Elected and Appointed Officials
 - 2. Higher Education
 - 3. Petition: Create a Support System for Tribal Members Engaged with Oneida Judiciary
 - 4. Furlough Policy
- V. Additions**
- VI. Administrative Updates**
 - 1. Personnel Commission Legislation (verbal update)
- VII. Executive Session**
- VIII. Recess/Adjourn**

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor

Norbert Hill Center

October 1, 2014 9:00 a.m.

PRESENT: Brandon Stevens, Fawn Billie, Jennifer Webster, Tehassi Hill

OTHERS PRESENT: Lynn Franzmeier, Taniquelle Thurner, Layatalati Hill, Candice Skenandore, RC Metoxen, Danelle Wilson, Fawn Cottrell, Cheryl Vandenberg, Bill Ver Voort, Terry Cornelius, Lora Skenandore, Bill Cornelius

I. Call to Order and Approval of the Agenda

Brandon Stevens called the October 1, 2014 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Fawn Billie to approve the agenda with one additional item - the Administrative Procedures Act Background Memo; seconded by Tehassi Hill. Motion carried unanimously.

II. Minutes

1. July 30, 2014 Special LOC Meeting Minutes (01:37 – 03:04)

Motion by Jennifer Webster to approve the July 30, 2014 Special LOC Meeting Minutes; seconded by Tehassi Hill. Motion carried unanimously.

2. August 15, 2014 Special LOC Meeting Minutes (03:11 – 03:40)

Motion by Jennifer Webster to approve the August 15, 2014 Special LOC Meeting Minutes; seconded by Tehassi Hill. Motion carried unanimously.

3. September 17, 2014 LOC Meeting Minutes (03:43 – 04:08)

Motion by Jennifer Webster to approve the September 17, 2014 LOC Meeting Minutes; seconded by Tehassi Hill. Motion carried unanimously.

III. Current Business

1. ONGO Emergency Amendments (04:12 – 07:54)

Motion by Tehassi Hill to approve the resolution with the change from seven years to three years, and to forward it to the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.

2. Petition: Hold a GTC Meeting to Address Tribal Election Issues (08:00 – 09:30)

Motion by Fawn Billie to forward the memo regarding the petition to the Oneida Business Committee as an update; seconded by Tehassi Hill. Motion carried unanimously.

IV. New Submissions

1. Petition: Constitution Amendments: Blood Quantum (09:31 – 23:26)

Motion by Tehassi Hill to forward the memo to the Oneida Business Committee regarding amending the Constitution and Bylaws; seconded by Fawn Billie. Motion carried unanimously.

2. Higher Education (23:27 – 29:10)

Motion by Fawn Billie to approve the memo and forward to the Oneida Business Committee for acceptance; seconded by Jennifer Webster. Motion carried unanimously.

3. Sovereignty in Agriculture (29:21 – 50:00)

Motion by Tehassi Hill to add Agricultural Law to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Tehassi Hill will be the sponsor.

4. Pow-wow Committee Bylaws (50:04 – 51:47)

Motion by Jennifer Webster to add Pow-wow Committee Bylaws to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Fawn Billie will be the sponsor.

5. LLDEH Priority Legislation (51:55 – 57:52)

Motion by Tehassi Hill to accept the Proposed Priorities for Land Use Legislation memo as FYI; seconded by Fawn Billie. Motion carried unanimously.

V. Additions

1. Administrative Procedures Act Background Memo (59:13 – 01:00:17)

Motion by Tehassi Hill to accept the Administrative Procedures Act Background memo as FYI; seconded by Jennifer Webster. Motion carried unanimously.

VI. Administrative Updates (57:52 – 59:11)

1. Quarterly Report

Motion by Jennifer Webster to approve the Quarterly Report and forward to the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.

VII. Executive Session

VIII. Recess/Adjourn

Motion by Tehassi Hill to adjourn the October 1, 2014 Legislative Operating Committee meeting at 10:05 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee

October 15, 2014

Public Use of Tribal Land Amendments

Submission Date: September 17, 2014

☐ Public Meeting:
☒ Emergency Enacted: 7/23/14
 Expires: 1/23/15

LOC Sponsor: Tehassi Hill

Summary: *These proposed amendments would (1) allow Tribal employees who are not Tribal members, and non-Tribal contractors, access to land they were unable to lawfully access in order to complete their assigned duties or contracted work; (2) enable emergency personnel to access Tribal land, when necessary; and (3) give the Environmental Resources Board the ability to grant permission for land access to other individuals/groups not eligible to access certain lands under the Law. Similar amendments to the Law were adopted on an emergency basis on July 23, 2014. The emergency amendments expire on January 23, 2015 if not extended.*

9/14/14 LOC: Motion by Jennifer Webster to add the Public Use of Tribal Land Emergency Amendments to the Active Files List with Tehassi Hill as sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- LOC to consider forwarding the attached amendments to a November 6, 2014 public meeting.



Notice of
Public Meeting
to be held



November 6, 2014 at 12:15 p.m.

OBC Conference Room—2nd Floor, Norbert Hill Center

Topic: Public Use of Tribal Land Law Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would:

- ◆ Enable employees of the Tribe who are not Tribal members to access land otherwise restricted to them to complete their assigned duties.
- ◆ Give non-Tribal contractors the authority to access land to conduct work activities they were contracted to perform.
- ◆ Provide an exception for emergency personnel to access otherwise restricted land as necessary to provide emergency services.
- ◆ Give the Environmental Resource Board the ability to grant permission for land access to other individuals/groups that are not covered by these exceptions.

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until November 14, 2014

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office (LRO), which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
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CHAPTER 38 PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy
38.2. Adoption, Amendment, Repeal
38.3. Definitions
38.4. Environmental Resource Board

38.5. Land Access Map
38.6. Trespass
38.7. Violations and Appeals

<i>Analysis by the Legislative Reference Office</i>					
Title	Public Use of Tribal Land Law (The Law)				
Requester	Environmental Health & Safety Division	Drafter	Lynn Franzmeier	Analyst	Tani Thurner
Reason for Request	To create limited exceptions to the restricted access for certain designated types of land. Amendments have been adopted on an emergency basis; this proposal now seeks to make those amendments permanent.				
Purpose	Regulating access to Tribal lands to prevent improper use, access and trespass.				
Authorized/ Affected Entities	Environmental Resource Board (ERB) has primary implementation and enforcement responsibilities. The Environmental Health and Safety Division, Division of Land Management, Geographic Land Information Systems and "other designated agencies of the Tribe" are responsible for coordinating with ERB in developing a Land Access Map. Conservation Wardens and Oneida Police Officers issue citations for violations.				
Due Process	Citations can be contested through a hearing held before ERB				
Related Legislation	OBC Resolution #05-15-14-D sets out a schedule of fines for violations.				
Policy Mechanism	Posting signs on lands that identify how that land is designated.				
Enforcement	Conservation Wardens and Oneida Police Officers are authorized to issue citations for violations of this Law, ERB is given authority to conduct hearings as an original hearing body when a citation is appealed.				

Overview

The proposed amendments to the Law (the Amendments) have been requested in order to resolve access-related issues that could arise under the current Law.

Proposed Amendments

Community Access to include persons accompanying an authorized employee

Under the current Law, which was adopted by the OBC on May 15, 2014, some Tribal lands are designated as "Oneida Community Access" which means those lands can only be accessed by Tribal members and their spouses/descendants, members of other Indian tribes, authorized employees of the Tribe, and persons accompanied at all times by a Tribal member or a Tribal member's spouse or descendant. However, some tours of the Reservation may enter Oneida Community Access land. If the tour guide is a Tribal employee who is not a Tribal member or a spouse/descendant, then under the current Law that employee may be authorized to access those lands, but the tourists would still not be eligible to access those lands. The amendments resolve this by expanding Oneida Community Access to include persons who are accompanied at all times by an employee of the Tribe. [38.5-1(b)]

Other Exceptions

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The current Law also permits lands to be designated as “Oneida Tribal Member Access” – accessible by Tribal members only, and “Limited Access” – accessible only when the Tribe grants a permit or lease for specified purposes. However, there are situations where persons may need to enter Community Member, Limited, or Tribal Member Access-designated lands. To address this, a new provision is added to clarify that this Law should not be construed as preventing the following persons from entering Tribal land, regardless of its designation:

- Tribal employees performing job duties.
- Persons performing grant or contractual obligations related to the Tribal land and on behalf of the Tribe
- Emergency personnel who are providing, or attempting to provide, services.
- Persons granted access by the Environmental Resource Board. [38.5-2]

Miscellaneous

Amendments were adopted on an emergency basis on July 23, 2014, and are set to expire on January 23, 2014; unless the emergency adoption is extended an additional six months or the amendments are permanently adopted.

A public meeting has not been held.

CHAPTER 38 PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy

38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and trespass to Tribal lands.

38.1-2. *Policy.* It is the policy of the Tribe to limit access to Tribal land to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

38.2. Adoption, Amendment, Repeal

38.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-05-15-14-C and shall be effective sixty (60) days after adoption.

38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

38.2-3. 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.

38.2-4. 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.

38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

38.2-6. This Law shall not be construed to preclude the Tribe from pursuing relief for criminal trespass under applicable law.

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38.3. Definitions

38.3-1. 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) "Designation" means the term used to describe the type of access granted to certain Tribal lands.

(b) "Lease" means any lease or agreement, including business site leases, entered into by the Tribe and any person to allow the use of Tribal lands.

(c) "Person" means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(d) "Reservation" means all the lands and waters within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(e) "Trespass" means the unauthorized use or entry on Tribal lands, including unauthorized uses under a Tribal law, permit or lease.

(f) "Tribal" or "Tribe" means the Oneida Tribe of Indians of Wisconsin.

(g) "Tribal land" means all Tribal trust lands, and any land or interest in land held by the Oneida Tribe in fee or in any other form on the Reservation.

38.4. Environmental Resource Board

38.4-1. The Environmental Resource Board shall have the duty and power to carry out the intent and purposes of this Law and enforce the provisions of this Law. The Environmental Resource Board, or its designated staff, shall:

(a) Develop, approve and maintain the Land Access Map.

(b) Hold public hearings on proposed amendments to the Land Access Map.

(c) Hear and decide, as the original hearing body, contested cases that may arise under this Law.

(d) Impose hearing costs and restitution against the person for damages caused by a violation of this Law.

(e) Determine which Tribal land will be posted and ensure the appropriate signs are posted.

(f) Implement and interpret the provisions of this Law.

38.5. Land Access Map

38.5-1. *Designation of Tribal Lands.* A Land Access Map shall be created which designates Tribal land as one (1) of the following:

(a) Limited Access: Lands designated as "Limited Access" shall be open to all persons who are granted land access permission by the Tribe through a permit or lease for specified purposes. The Environmental Resource Board may choose to designate a portion of land as Limited Access in order to manage, preserve and protect that land for environmental, cultural or other significance.

(b) Oneida Community Access: Lands designated as "Oneida Community Access" shall be open to Tribal members, and their spouses and descendants; members of other federally recognized Indian tribes, bands or communities; authorized employees of the

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88 | Tribes; and persons who are accompanied at all times by a Tribal member, ~~or~~ the spouse
 89 | or ~~descendant~~ descendant of a Tribal member; or an authorized ~~employees~~ employee of
 90 | the Tribe.

91 | (1) A Conservation Warden or Oneida Police Officer may require a person to
 92 | demonstrate proof of eligibility to use Oneida Community Access lands.

93 | (2) The Environmental Resource Board may choose to designate land as Oneida
 94 | Community Access in order to manage, preserve and protect access to locations
 95 | that have cultural or environmental significance.

96 | (c) Oneida Tribal Member Access: Land designated as “Oneida Tribal Member Access”
 97 | shall be open to Tribal members only. The Environmental Resource Board may
 98 | designate land as Oneida Tribal Member Access to protect the land for Tribal member
 99 | use due to the historical, spiritual, cultural and/or environmental significance of the land.

100 | (d) Open: Lands designated as “Open Access” shall be generally open to all persons for
 101 | the land’s designated use and enjoyment. The Environmental Resource Board may
 102 | designate land as Open Access where such designation is deemed beneficial to the Tribe
 103 | and where such designation does not pose significant risk of damage to the policies of the
 104 | Tribe and/or the land’s cultural or environmental preservation.

105 | 38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law shall be construed as
 106 | preventing the following persons from entering Tribal land, regardless of the land designation:

107 | (a) Employees of the Tribe who are performing their job duties;

108 | (b) Those persons who are performing grant or contractual obligations related to the
 109 | Tribal land and on behalf of the Tribe;

110 | (c) Emergency personnel who are providing, or attempting to provide, services; and

111 | (d) Those persons who have been granted access to the land by the Environmental
 112 | Resource Board.

113 | 38.5-3. Development of the Land Access Map. The Environmental Resource Board shall
 114 | develop the Land Access Map in coordination with the Oneida Environmental Health and Safety
 115 | Division, the Oneida Division of Land Management, Geographic Land Information Systems and
 116 | other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the
 117 | initial Land Access Map.

118 | 38.5-34. General Land Designation. Unless otherwise designated, Tribal Land shall be
 119 | designated as Limited Access.

120 | 38.5-45. Amending the Land Access Map. The Environmental Resource Board may, from time
 121 | to time, in the manner hereafter set forth, amend the Land Access Map, provided that due
 122 | consideration shall be made for the intent and purposes of the designation.

123 | (a) Amendments may be proposed by any person by filing an application with the
 124 | Environmental Resource Board in such format and accompanied by such information as
 125 | required by the Board.

126 | (b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on
 127 | each application to amend the Land Access Map.

128 | (1) The Environmental Resource Board shall set a date for the public hearing and
 129 | meet the notice requirements of the public hearing as soon as possible after the
 130 | filing of the application is complete.

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(A) *Notice*. Not less than ten (10) business days and not more than thirty (30) business days prior to the public hearing, notice, including the time, place and purpose of the public hearing, shall be:

(i) published in the Tribal newspaper; and

(ii) mailed to all owners of land located within twelve hundred (1,200) feet of the outer boundaries of the land that is the subject of the public hearing.

(B) Any person who cannot attend the public hearing may be represented by an agent, advocate or attorney at the public hearing.

(C) The Environmental Resource Board shall issue a decision or recommendation regarding amendments to the Land Access Map within seven (7) business days after the public hearing is held.

(2) The Environmental Resource Board together with the Environmental Health and Safety Division shall, after holding a public hearing and reviewing any comments received, make written findings of fact and determine whether to amend the Land Access Map.

(3) The Environmental Resource Board shall make findings based upon the evidence presented to it with respect to the following matters:

(A) Existing uses of the land and buildings within the general area of the land in question.

(B) Suitability of the land in question to the uses permitted under the existing Land Access Map.

(4) The Environmental Resource Board shall not amend the Land Access Map unless it finds that adopting such amendment is in the Tribe's best interest and is not solely for the interest of the applicant.

(c) The Environmental Resource Board may grant or deny any application to amend the Land Access Map; however, amendments shall require a two-thirds (2/3) vote of the Environmental Resource Board if a written protest against any amendment is presented to the Environmental Resource Board and is signed by:

(1) the lessees, assignees and owners of at least twenty percent (20%) of the acres of land included in such amendment; or

(2) the lessees, assignees and owners of at least twenty percent (20%) of the land immediately adjacent to the land included in such amendment, extending in a radius of twelve hundred (1,200) feet of the outer boundaries of the land.

38.6. Trespass

38.6-1. A person trespasses if the person enters or otherwise occupies Tribal land and:

(a) Refuses to leave land to which the person has no reasonable claim or right of possession when requested to do so.

(b) Enters upon such land after being noticed by the landowner or occupant that permission for the person to enter such land does not exist, or has been expressly denied or revoked. A person has been noticed that permission by the landowner or occupant for such person to enter such land does not exist if he or she has been notified publicly, by

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publication of the Land Access Map on the Tribal website and/or in the Tribal newspaper, or if the land is posted. Land is considered to be posted if one (1) of the following requirements is met:

(1) A sign at least eleven (11) inches square is placed in at least two (2) conspicuous places for every forty (40) acres of land to be protected. The sign shall provide an appropriate notice and the name of the person giving the notice, followed by the word “owner” if the person is the holder of legal title to the land or by the word “occupant” if the person is a lawful occupant of the land, but not the holder of legal title.

(2) Markings at least one (1) foot long and, in a contrasting color, the phrase “private land” and the name of the owner, are made in at least two (2) conspicuous places for every forty (40) acres of land.

(c) Does any of the following without proper authorization through a lease, permit or as otherwise required under applicable law:¹

(1) Destroys land, waters, livestock, poultry, buildings, equipment, or any property without consent or permission.

(2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the land, or carries away any wood, timber, plant, vegetation or crop on the land.

(3) Engages in any act, or attempted act of hunting, trapping or fishing.

(4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any other property.

(5) Erects, puts up, fastens, prints, or paints upon another’s property, notices, advertisements, signs or other writing designed to communicate to the general public.

(6) Parks or drives any vehicle on the land.

(7) Permits or allows livestock or any domesticated animal to enter upon or remain upon the land.

(8) Uses or possesses leased or subleased lands beyond the possessory rights granted by such lease or sublease.

(9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land.

38.7. Violations and Appeals

38.7-1. *Issuance of a Citation.* Any person who violates any provision of this Law shall be guilty of a civil infraction, and shall be issued a citation, in writing, by a Conservation Warden or Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same or any other matter shall not preclude the issuance of a citation under this Law.

¹ Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and Solid Waste Disposal; Chapter 45, Hunting, Fishing and Trapping Law; Chapter 49: All-Terrain Vehicle Law; Chapter 69, Zoning and Shoreland Protection Law.

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(a) The Oneida Business Committee, upon recommendation of the Environmental Resource Board, shall adopt a citation schedule.

(b) The citation shall specify the date, time and place of the hearing to contest the citation. The hearing shall take place at least five (5) business days after the citation is issued.

(c) The citation shall also state that the Environmental Resource Board may, in addition to the citation, impose hearing costs and restitution against the person for damages caused by a violation of this Law.

38.7-2. *Citation Hearing.* Any person issued a citation under this Law may contest the citation by attending a hearing before the Environmental Resource Board. The person may appear in person, or be represented by an agent, advocate or attorney.

(a) If the person does not wish to contest the citation, he or she shall pay the citation by the hearing date specified on the citation.

(b) After the hearing, the Environmental Resource Board shall:

(1) determine whether the person is responsible for the citation, as was issued;

(2) determine whether to impose hearing costs and/or restitution against the person for the value of any damage caused by a violation of this Law; and

(3) set a new date for when the citation, hearing costs and/or restitution shall be paid, if necessary.

(c) Any restitution funds received shall be used to repair the damages caused by a violation of this Law.

38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

End.

Adopted – BC-05-15-14-C

CHAPTER 38 PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy
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38.7. Violations and Appeals

38.1. Purpose and Policy

38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and trespass to Tribal lands.

38.1-2. *Policy.* It is the policy of the Tribe to limit access to Tribal land to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

38.2. Adoption, Amendment, Repeal

38.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-05-15-14-C and shall be effective sixty (60) days after adoption.

38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

38.2-3. 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.

38.2-4. 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.

38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

38.2-6. This Law shall not be construed to preclude the Tribe from pursuing relief for criminal trespass under applicable law.

38.3. Definitions

38.3-1. 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) "Designation" means the term used to describe the type of access granted to certain Tribal lands.

(b) "Lease" means any lease or agreement, including business site leases, entered into by the Tribe and any person to allow the use of Tribal lands.

(c) "Person" means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(d) "Reservation" means all the lands and waters within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(e) "Trespass" means the unauthorized use or entry on Tribal lands, including unauthorized uses under a Tribal law, permit or lease.

(f) "Tribal" or "Tribe" means the Oneida Tribe of Indians of Wisconsin.

(g) "Tribal land" means all Tribal trust lands, and any land or interest in land held by the Oneida Tribe in fee or in any other form on the Reservation.

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38.4. Environmental Resource Board

38.4-1. The Environmental Resource Board shall have the duty and power to carry out the intent and purposes of this Law and enforce the provisions of this Law. The Environmental Resource Board, or its designated staff, shall:

- (a) Develop, approve and maintain the Land Access Map.
- (b) Hold public hearings on proposed amendments to the Land Access Map.
- (c) Hear and decide, as the original hearing body, contested cases that may arise under this Law.
- (d) Impose hearing costs and restitution against the person for damages caused by a violation of this Law.
- (e) Determine which Tribal land will be posted and ensure the appropriate signs are posted.
- (f) Implement and interpret the provisions of this Law.

38.5. Land Access Map

38.5-1. *Designation of Tribal Lands.* A Land Access Map shall be created which designates Tribal land as one (1) of the following:

- (a) Limited Access: Lands designated as “Limited Access” shall be open to all persons who are granted land access permission by the Tribe through a permit or lease for specified purposes. The Environmental Resource Board may choose to designate a portion of land as Limited Access in order to manage, preserve and protect that land for environmental, cultural or other significance.
- (b) Oneida Community Access: Lands designated as “Oneida Community Access” shall be open to Tribal members, and their spouses and descendants; members of other federally recognized Indian tribes, bands or communities; authorized employees of the Tribe; and persons who are accompanied at all times by a Tribal member, the spouse or descendant of a Tribal member, or an authorized employee of the Tribe.
 - (1) A Conservation Warden or Oneida Police Officer may require a person to demonstrate proof of eligibility to use Oneida Community Access lands.
 - (2) The Environmental Resource Board may choose to designate land as Oneida Community Access in order to manage, preserve and protect access to locations that have cultural or environmental significance.
- (c) Oneida Tribal Member Access: Land designated as “Oneida Tribal Member Access” shall be open to Tribal members only. The Environmental Resource Board may designate land as Oneida Tribal Member Access to protect the land for Tribal member use due to the historical, spiritual, cultural and/or environmental significance of the land.
- (d) Open: Lands designated as “Open Access” shall be generally open to all persons for the land’s designated use and enjoyment. The Environmental Resource Board may designate land as Open Access where such designation is deemed beneficial to the Tribe and where such designation does not pose significant risk of damage to the policies of the Tribe and/or the land’s cultural or environmental preservation.

38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law shall be construed as preventing the following persons from entering Tribal land, regardless of the land designation:

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- (a) Employees of the Tribe who are performing their job duties;
- (b) Those persons who are performing grant or contractual obligations related to the Tribal land and on behalf of the Tribe;
- (c) Emergency personnel who are providing, or attempting to provide, services; and
- (d) Those persons who have been granted access to the land by the Environmental Resource Board.

38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall develop the Land Access Map in coordination with the Oneida Environmental Health and Safety Division, the Oneida Division of Land Management, Geographic Land Information Systems and other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the initial Land Access Map.

38.5-4. *General Land Designation.* Unless otherwise designated, Tribal Land shall be designated as Limited Access.

38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to time, in the manner hereafter set forth, amend the Land Access Map, provided that due consideration shall be made for the intent and purposes of the designation.

(a) Amendments may be proposed by any person by filing an application with the Environmental Resource Board in such format and accompanied by such information as required by the Board.

(b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on each application to amend the Land Access Map.

(1) The Environmental Resource Board shall set a date for the public hearing and meet the notice requirements of the public hearing as soon as possible after the filing of the application is complete.

(A) *Notice.* Not less than ten (10) business days and not more than thirty (30) business days prior to the public hearing, notice, including the time, place and purpose of the public hearing, shall be:

(i) published in the Tribal newspaper; and

(ii) mailed to all owners of land located within twelve hundred (1,200) feet of the outer boundaries of the land that is the subject of the public hearing.

(B) Any person who cannot attend the public hearing may be represented by an agent, advocate or attorney at the public hearing.

(C) The Environmental Resource Board shall issue a decision or recommendation regarding amendments to the Land Access Map within seven (7) business days after the public hearing is held.

(2) The Environmental Resource Board together with the Environmental Health and Safety Division shall, after holding a public hearing and reviewing any comments received, make written findings of fact and determine whether to amend the Land Access Map.

(3) The Environmental Resource Board shall make findings based upon the evidence presented to it with respect to the following matters:

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(A) Existing uses of the land and buildings within the general area of the land in question.

(B) Suitability of the land in question to the uses permitted under the existing Land Access Map.

(4) The Environmental Resource Board shall not amend the Land Access Map unless it finds that adopting such amendment is in the Tribe's best interest and is not solely for the interest of the applicant.

(c) The Environmental Resource Board may grant or deny any application to amend the Land Access Map; however, amendments shall require a two-thirds (2/3) vote of the Environmental Resource Board if a written protest against any amendment is presented to the Environmental Resource Board and is signed by:

(1) the lessees, assignees and owners of at least twenty percent (20%) of the acres of land included in such amendment; or

(2) the lessees, assignees and owners of at least twenty percent (20%) of the land immediately adjacent to the land included in such amendment, extending in a radius of twelve hundred (1,200) feet of the outer boundaries of the land.

38.6. Trespass

38.6-1. A person trespasses if the person enters or otherwise occupies Tribal land and:

(a) Refuses to leave land to which the person has no reasonable claim or right of possession when requested to do so.

(b) Enters upon such land after being noticed by the landowner or occupant that permission for the person to enter such land does not exist, or has been expressly denied or revoked. A person has been noticed that permission by the landowner or occupant for such person to enter such land does not exist if he or she has been notified publicly, by publication of the Land Access Map on the Tribal website and/or in the Tribal newspaper, or if the land is posted. Land is considered to be posted if one (1) of the following requirements is met:

(1) A sign at least eleven (11) inches square is placed in at least two (2) conspicuous places for every forty (40) acres of land to be protected. The sign shall provide an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person is the holder of legal title to the land or by the word "occupant" if the person is a lawful occupant of the land, but not the holder of legal title.

(2) Markings at least one (1) foot long and, in a contrasting color, the phrase "private land" and the name of the owner, are made in at least two (2) conspicuous places for every forty (40) acres of land.

(c) Does any of the following without proper authorization through a lease, permit or as otherwise required under applicable law:¹

¹ Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and

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11/06/14

- (1) Destroys land, waters, livestock, poultry, buildings, equipment, or any property without consent or permission.
- (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the land, or carries away any wood, timber, plant, vegetation or crop on the land.
- (3) Engages in any act, or attempted act of hunting, trapping or fishing.
- (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any other property.
- (5) Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public.
- (6) Parks or drives any vehicle on the land.
- (7) Permits or allows livestock or any domesticated animal to enter upon or remain upon the land.
- (8) Uses or possesses leased or subleased lands beyond the possessory rights granted by such lease or sublease.
- (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land.

38.7. Violations and Appeals

38.7-1. *Issuance of a Citation.* Any person who violates any provision of this Law shall be guilty of a civil infraction, and shall be issued a citation, in writing, by a Conservation Warden or Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same or any other matter shall not preclude the issuance of a citation under this Law.

(a) The Oneida Business Committee, upon recommendation of the Environmental Resource Board, shall adopt a citation schedule.

(b) The citation shall specify the date, time and place of the hearing to contest the citation. The hearing shall take place at least five (5) business days after the citation is issued.

(c) The citation shall also state that the Environmental Resource Board may, in addition to the citation, impose hearing costs and restitution against the person for damages caused by a violation of this Law.

38.7-2. *Citation Hearing.* Any person issued a citation under this Law may contest the citation by attending a hearing before the Environmental Resource Board. The person may appear in person, or be represented by an agent, advocate or attorney.

(a) If the person does not wish to contest the citation, he or she shall pay the citation by the hearing date specified on the citation.

(b) After the hearing, the Environmental Resource Board shall:

- (1) determine whether the person is responsible for the citation, as was issued;
- (2) determine whether to impose hearing costs and/or restitution against the person for the value of any damage caused by a violation of this Law; and

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206 (3) set a new date for when the citation, hearing costs and/or restitution shall be
207 paid, if necessary.

208 (c) Any restitution funds received shall be used to repair the damages caused by a
209 violation of this Law.

210 38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may
211 appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

212
213 *End.*

214
215

Adopted – BC-05-15-14-C
216



Legislative Operating Committee

October 15, 2014

Rules of Appellate Procedure Amendments

Submission Date: September 17, 2014

Public Meeting:
☐ Emergency Enacted:
Expires:

LOC Sponsor: Jennifer Webster

Summary: *In order for the Court of Appeals to run in a more effective and efficient manner, a request was submitted to add a five day timeline for the certification and filing of the record and also changes the timeline for the Appellant to serve and file a brief to 20 days after receipt of the certified record rather than 20 days after the notice of appeal is filed.*

9/17/14 LOC: Motion by Jennifer Webster to add the Rules of Appellate Procedure to the Active Files List with Jennifer Webster as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

Next Steps:

- Approve the November 6, 2014 public meeting date.



Notice of
Public Meeting
to be held



November 6, 2014 at 12:15 p.m.
OBC Conference Room - 2nd Floor, Norbert Hill Center

Topic: Rules of Appellate Procedure Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would:

- ◆ Establish a time line for the Clerk to prepare, certify and file all papers comprising the record of the case appealed.
- ◆ Establish that a time line for filing Briefs is tied to when the certified record is received by the Appellant and not when the Notice of Appeal is filed.
- ◆ Expand the definition section.

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until November 14, 2014

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office (LRO), which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
Oneida, WI 54155

Phone: **(920) 869-4376 or (800) 236-2214**
E-Mail: **LOC@Oneidanation.org**
Fax: **(920) 869-4040**

ONEIDA TRIBE OF INDIANS OF WISCONSIN

REVISED *Handout 10/15/14*
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III. 2.



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

ONEIDA FINANCE OFFICE

Office: (920) 869-4325 • Toll Free: 1-800-236-2214
FAX # (920) 869-4024



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

MEMORANDUM

DATE: October 10, 2014
FROM: Rae Skenandore, Project Manger
TO: Larry Barton, Chief Financial Officer
Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer
RE: Fiscal Impact of the Amendments to the Rules of Appellate Procedure

I. Background

The Oneida Tribal Judicial System was created by GTC Resolution # 01-07-13-B. BC Resolution 04-25-14-B adopted the Oneida Judiciary Rules of Appellate Procedure to be effective when the Judiciary goes into effect November 1, 2014. The Family Court Judge has requested that amendments be made to the Law so that the Court of Appeals can run in a more effective and efficient manner. The amendments include the following:

- Replacing the definition of "Trial Court" with the definition a definition of "original hearing body".
- Inserting a timeline of five business days of receiving the Notice of Appeal and Proof of Service for the Clerk to prepare, certify and file all papers from the appealed case with the Court of Appeals.
- Extend the current timeline for serving and filing a brief from 20 days after the Notice of Appeal to within 20 days of receiving the Certified Record.
- Additional minor changes not impacting content.

II. Executive Summary of Findings

There are no additional startup costs to the proposed amendments. No additional staff has been identified as needed in order to implement the amendments.

III. Financial Impact

No fiscal impact

IV. Recommendation

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

Chapter 154 Rules of Appellate Procedure

154.1. Purpose and Policy
154.2. Adoption, Amendment Repeal
154.3. Definitions
154.4. General Provisions
154.5. Initiating the Appeal
154.6. Appeal by Permission
154.7. Joint, Consolidated, and Cross Appeals
154.8. Service, Filing and Certification
154.9. Time Computation

154.10. Motions
154.11. Briefs
154.12. Oral Argument
154.13. Entry and Form of Judgment
154.14. Interest of Judgments
154.15. Penalties
154.16. Substitution of Parties
154.17. Costs

<i>Analysis by the Legislative Reference Office</i>					
Title	Rules of Appellate Procedures (Law)				
Requester	Judge Robert Collins	Drafter	Lati Hill	Analyst	Candice E. Skenandore
Reason for Request	The Family Court Judge has requested that amendments be made to the Law so that the Court of Appeals can run in a more effective and efficient manner.				
Purpose	The purpose of this Law is to govern the procedures in all actions and proceedings in the Tribe's Court of Appeals				
Authorized/ Affected Entities	Court of Appeals, Court Staff, persons that utilize the Court of Appeals				
Due Process	Court of Appeals				
Related Legislation	Rules of Civil Procedure and the Federal Rules of Appellate Procedure can be used as a guide when this Law does not address an issue; however, those rules must be consistent with existing Oneida Rules of Procedure, Tribal laws or customs of the Tribe.				
Policy Mechanism	The Court of Appeals can issue penalties for frivolous appeals, delays and non-compliance with the rules				
Enforcement	The Court of Appeals can issue penalties which may include, among other things, court costs, attorney fees, double costs, interest on the award amount, damages, dismissal of the appeal, summary reversal of the original hearing body decision and/or other actions as the Court of Appeals considers appropriate				

Overview

This Law governs the procedures in all actions and proceedings of the Court of Appeals and can be used in conjunction with the Rules of Civil Procedure. If this Law fails to address an issue, then the Federal Rules of Appellate Procedure can be used as a guide so long as they are consistent with Tribal law [*See 154.1-1 and 154.4-1*].

Proposed Amendments

The proposed amendments are as follows:

- The definition section has been amended to include a definition for “original hearing body” and removes the definition for “Trial Court”. This proposed amendment will allow the Court of Appeals to hear appeals on final judgments, orders or decisions of not only the Tribe’s Trial Court but also the Tribe’s Family Court and any board, committee or commission that has hearing authority [*See 154.3-1 (q)*].
- A timeline has been added that will require the Clerk to prepare, certify and file all papers from the appealed case with the Court of Appeals within five business days of receiving the Notice of Appeal and Proof of Service [*See 154.8-4*]. The current Law does not specify when the Clerk must prepare, certify and file the papers.
- The timeline for serving and filing a brief has been extended. Currently the Appellant has

20 days after the Notice of Appeal is filed to serve the brief to the Respondent and file the brief with the Clerk. The proposed amendment will extend this timeline to allow the Appellant to file and serve the brief within 20 days of receiving the Certified Record [See 154.11-1 (d)].

Miscellaneous

A public meeting has not been held. Additional, minor revisions were made to the Law that do not affect the content of this Law.

154.1. Purpose and Policy

154.1-1. *Purpose.* The purpose of this Law is to govern the procedure in all actions and proceedings in the divisions that make up the Court of Appeals within the Judiciary that fall under the jurisdiction of the Tribe.

154.1-2. *Policy.* It is the policy of the Tribe that these rules are to be liberally construed to ensure a speedy, fair, and inexpensive determination of every appeal.

154.2. Adoption, Amendment Repeal

154.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-04-25-14-AB.

154.2-2. This Law may be amended or repealed pursuant to the procedures set out in the Oneida Legislative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

154.2-3. 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.

154.2-4. 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.

154.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

154.3. Definitions

154.3-1. 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) "Agent" shall mean a person authorized to act on behalf of another.

(b) "Amicus Curiae" shall mean (literally, friend of the court) a person who is not a party to a case, nor solicited by any of the parties, who files a brief to assist the Court by furnishing information or advice regarding questions of law or fact.

(c) "Answer" shall mean a written response in opposition to a brief or petition.

(d) "Appeal" shall mean a review in the Court of Appeals by appeal or writ of error authorized by law of a judgment or order of the ~~Trial Court~~original hearing body.

(e) "Appellant" shall mean a person who files a notice of appeal.

(f) "Attorney" shall mean an Oneida non-attorney advocate as provided by law and other advocate who is admitted to practice law and is presented to the court as the representative or advisor to a party.

(g) "Brief" shall mean a written legal document which aids in the Court's decision by reciting the facts of the case, the arguments being raised on appeal, and the applicable law.

(h) "Clerk" shall mean the Clerk of the Court of Appeals.

- (i) "Court" shall mean the Court of Appeals of the Tribe.
- (j) "Cross-Appeal" shall mean an appeal brought by the Respondent against the Appellant after the Appellant has already filed an appeal.
- (k) "Days" shall mean calendar days, unless otherwise specifically stated.
- (l) "Docketed" shall mean an appeal that has been filed and assigned a docket number.
- (m) "Electronic" shall mean an electronic communication system, including, but is not limited to E-mail, used for filing papers with the Court or serving papers on any other party.
- (n) "Interlocutory" shall mean an order or appeal that occurs before the ~~Trial Court~~original hearing body issues a final ruling on a case.
- (o) "Joinder" shall mean the joining together of several claims or several parties all in one (1) hearing, provided that the legal issues and the factual situation are the same for all Appellants and Respondents.
- ~~(p)~~ "Judiciary" shall mean the Oneida Tribal Judicial System.
- ~~(p)~~(q) "Original Hearing Body" shall mean the Trial Court or Family Court of the Tribe or any board, committee, or commission of the Tribe with hearing authority.
- ~~(q)~~(r) "Petitioner" shall mean a person filing a petition.
- ~~(s)~~(s) "Pro se" shall mean advocating on one's own behalf before the Court, rather than being represented by an attorney.
- ~~(s)~~(t) "Reply Brief" shall mean a brief of a party to a legal action in answer to points of law raised in an opponent's brief but not in his or her own.
- ~~(u)~~(u) "Respondent" shall mean a person adverse to the Appellant.
- ~~(v)~~(v) "Rules" shall mean the Court of Appeals Rules of Procedure.
- ~~(w)~~(w) "Stay" shall mean a suspension of a case or a suspension of a particular proceeding, including orders, within a case that prevents enforcement pending appeal or other circumstances.
- ~~(w)~~ ~~Trial Court shall mean the Trial Court of the Tribe~~
- (x) "Tribal" or "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.
- (y) "Tribal law" shall mean a code, act, statute, rule, regulation, policy or ordinance enacted by the Oneida General Tribal Council or the Oneida Business Committee.

154.4. General Provisions

154.4-1. These Rules may be used in conjunction with the Rules of Civil Procedure. Matters and proceedings not specifically set forth herein shall be handled in accordance with reasonable justice, as determined by the Court. Where these Rules fail to address an issue, the Federal Rules of Appellate Procedure may be used as a guide, so long as those rules are not inconsistent with existing Oneida Rules of Procedure, Tribal laws, or the customs of the Tribe.

154.4-2. On its own or by a party's motion; the Court may, to expedite its decision or for other good cause, suspend any provision of these Rules in a particular case and order proceedings as it directs.

154.4-3. The Chief Justice of the Court shall, when hearing a case, have the authority to compel the production of documents where such is deemed necessary to rendition of the Court's opinion. There shall not be a new trial in the Court. The Court may review both the factual findings and conclusions of law of the ~~Trial Court~~original hearing body.

154.5. Initiating the Appeal

154.5-1. *Right of Appeal.* Any party to a civil action, who is aggrieved by a final judgment, decision or order of the ~~Trial Court~~original hearing body, may appeal to the Court of Appeals.

(a) In any case brought on appeal, the Appellant may petition the Court for an order staying the judgment or order. A stay shall be granted in all cases in which it is requested unless plain and obvious injustice would result from granting the stay. The Court may render a stay conditioned upon execution of a bond to guarantee performance of the judgment or order when deemed necessary.

(b) In the event the appeal is denied, the Court shall state the reasons for the refusal within thirty (30) days of the receipt of the Notice of Appeal.

154.5-2. *Notice of Appeal.* Any party who is appealing shall appeal in the manner prescribed by this Rule.

(a) Such party shall file with the Clerk a Notice of Appeal from such judgment or order, together with a filing fee, as set by the Court, within thirty (30) days after the day such judgment or order was rendered. A Notice of Appeal shall not be filed by electronic means.

(1) *Waiver of Fee.* The Chief Judge of the Court may waive the filing fee upon motion for a fee waiver by the Appellant where the Chief Judge is satisfied the Appellant lacks the means to pay the filing fee. The motion shall include an affidavit demonstrating inability to pay and shall accompany the Notice of Appeal.

(b) In addition to the Notice of Appeal and filing fee, the following information shall be provided upon the filing of the notice:

(1) A copy of the written decision of the ~~Trial Court~~original hearing body;

(2) A short statement explaining what relief is sought by the Appellant;

(3) A short statement explaining the legal grounds for seeking the appeal and justification for the relief requested;

(4) Name, address and phone numbers of all parties, including respondent; and

(5) Name, address and phone numbers of all party attorneys, if known.

(c) A cash deposit or bond in an amount equal to the amount of any judgment, plus costs assessed by the ~~Trial Court~~original hearing body, or a motion for waiver of this requirement, shall accompany the Notice of Appeal. The deposit/bond requirement may be waived only when, in the judgment of the Court, such deposit/bond is not in the interest of justice and such waiver does not unnecessarily harm the judgment holder. The motion for waiver of the deposit/bond requirement shall be requested with notice to all parties. If the motion for waiver is denied, the deposit/bond shall be submitted within ten (10) days of the denial. The appeal shall be dismissed if the deposit/bond is not paid or waived.

(1) *Exception.* The Tribe, or an officer or agency of the Tribe shall be exempt from the requirement of providing any cash deposit or bond. The exemption under this section shall be automatic and shall not require a motion or waiver.

(d) An appeal shall not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.

154.5-3. *Perfection of Notice.* If the appellant fails to provide a completed Notice of Appeal Form, the filing fee or waiver form, or any required documents or materials, the Appellant shall be notified of any filing deficiencies by the Clerk within five (5) business days and shall have five (5) business days from receipt of this notice to perfect the filing. Failure to perfect the filing within five (5) business days may result in the non-acceptance of the appeal.

154.6. Appeal by Permission

154.6-1. *Appeal by Permission.* An appeal from an interlocutory order may be sought by filing a Petition for Permission to Appeal with the Clerk within ten (10) business days after the entry of such order with proof of service on all other parties to the action. Within ten (10) business days after service of the petition an adverse party may file an Answer in opposition. A decision shall be issued in a reasonable time, but no longer than thirty (30) days from the first deliberation unless good cause to extend the deadline is found by the Court. This extension shall be in writing. The petition shall contain:

- (a) a statement of the facts necessary to develop an understanding of the question of law determined by the order of the ~~Trial Court~~original hearing body; and
- (b) a statement of the question itself; and
- (c) a statement of the reasons why substantial basis exists for a difference of opinion on the question;
- (d) the relief sought; and
- (e) why an immediate appeal may:
 - (1) materially advance the termination of the litigation;
 - (2) protect the petitioner from substantial or irreparable injury; or
 - (3) clarify an issue of general importance in the administration of justice; and
- (f) The petition shall include or have a copy of the order of the ~~Trial Court~~original hearing body attached thereto.

154.7. Joint, Consolidated, and Cross Appeals

154.7-1. *Joint or Consolidated Appeals.* When two (2) or more parties are entitled to appeal from an ~~Trial Court~~original hearing body judgment or order, and their interests make joinder practicable, the parties may file a joint notice of appeal. The parties may then proceed on appeal as a single Appellant.

- (a) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the Court.
- (b) If the persons do not file a joint appeal or elect to proceed as a single Appellant, or if their interests are such as to make joinder impractical, the person shall proceed as Appellant and co-Appellant, with each co-Appellant to have the same procedural rights and obligations as the Appellant. The Appellant shall be the person who filed first.

154.7-2. *Cross Appeal.* A Respondent who seeks modification of the judgment or order appealed from or of another judgment or order entered in the same action or proceeding shall file a notice of cross-appeal within the time established for the filing of a notice of appeal or ten (10) business days after the receipt of the notice of appeal, whichever is later. The Respondent shall be listed as the cross-Appellant. A cross-Appellant has the same rights and obligations as an Appellant under these Rules.

154.8. Service, Filing and Certification

154.8-1. A paper required or permitted to be filed in the Court shall be filed with the Clerk. The filing party shall supply the Clerk with the original papers and three (3) copies. The filing party shall also provide one (1) copy of the papers for each opposing party or party's attorney. Filing shall be complete by the close of business on the day which the filing is due. The following methods of filing shall be used, in order of preference:

- (a) *In Person:* A party to a pending case, or the party's attorney or authorized Agent may file papers in person before the Clerk.

(b) *Electronic*: A party to a pending case may file papers electronically to the electronic address, designated for such filings, of the Clerk. A paper filed by electronic means shall constitute a written paper for the purpose of applying these Rules. Upon receipt by the Clerk, any paper filed electronically shall be deemed filed, signed and verified by the filing party.

(c) *By Mail*: A party to a pending case may file papers by certified mail with return receipt, with cover documents to be addressed to the Clerk. Filing shall not be completed upon mailing, but only upon receipt.

(1) Certified mail shall include the filing of papers through the Tribal certified interoffice mail system.

154.8-2. *Proof of Service*.

(a) A paper presented for filing shall contain either of the following:

(1) an acknowledgment of service by the person served; or

(2) proof of service consisting of a statement by the person who made service certifying:

(A) the date and manner of service;

(B) the names of the persons served;

(C) the mail or electronic addresses, facsimile numbers of the persons served, or the addresses of the places of delivery, as appropriate for the manner of service; and

(D) if served electronically, a writing by the person being served consenting to service by electronic means.

154.8.3. *Service of All Papers Required*. A party shall, at or before the time of filing a paper, serve a copy on all other parties to the appeal. Any party may be served by electronic means, if such party consents in writing to service by electronic means. Service on a party represented by an attorney shall be made on the party's attorney.

154.8-4. *Certification of the Record*. Upon receipt of the Notice of Appeal and Proof of Service, the Clerk shall prepare, certify and file with the Court, within five (5) business days, all papers comprising the record of the case appealed. The Certification of the Record shall be served on all parties.

(a) The record of the case shall consist of all papers filed with the ~~Trial Court~~original hearing body, exhibits, the transcript/recording of the proceedings, and the final decision of the ~~Trial Court~~original hearing body.

154.9. **Time Computation**

154.9-1. *Deadline Computation*. Time lines are determined by designating the day after notice is received as day one. Computation involving calendar days shall include intermediate Tribally observed holidays and weekend days, provided that if the last day of the period falls on a Saturday, Sunday or Tribally observed holiday, then the next business day shall be the due date. Computation involving business days shall not include intermediate weekend days or Tribally observed holidays. All papers due to be filed with the Clerk are due prior to the close of business on the last day of the time period.

(a) If notice is mailed, then three (3) days shall be added to the time line in order to determine the due date.

154.9-2. *Extension of Time*. For good cause, the Court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the Court shall not extend the time to file:

(a) a notice of appeal; or

(b) a petition for permission to appeal.

154.9-3. *Time to Complete.* Unless time is extended by the Court with the knowledge of the parties, the time from the filing of the Notice of Appeal to the completion and entry of the final written decision shall not exceed one hundred and twenty (120) days.

154.10. Motions

154.10-1. *Application for Relief.* An application for an order or other relief in a docketed case shall be made by motion unless these Rules prescribe another form. A motion shall be in writing unless the Court permits otherwise. The moving party shall file all motions with the Clerk and serve opposing parties as provided in 154.8.

154.10-2. *Contents of a Motion.* A motion shall state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

(a) Any affidavit or other paper necessary to support a motion shall be served and filed with the motion. An affidavit shall contain only factual information, not legal argument.

A motion seeking substantive relief shall include a copy of the ~~Trial Court~~original hearing body's opinion as a separate exhibit.

154.10-3. *Response to a Motion.* Any party may file a response to a motion, in accordance with 154.11-2. The response shall be filed within ten (10) days after service of the motion unless the Court shortens or extends the time.

154.10-4. *Motion for a Procedural Order.* The Court may act on a motion for a procedural order at any time without awaiting a response. A party adversely affected by the Court's action may file a motion to reconsider, vacate, or modify that action within five (5) days of receipt of notice of the decision.

154.10-5. *Motion for Voluntary Dismissal.* An appellant may dismiss an appeal by filing a motion to dismiss. If not yet docketed in the Court, then the motion shall be filed in the ~~Trial Court~~original hearing body. The dismissal of an appeal shall not affect the status of a cross-appeal or the right of a respondent to file a cross appeal.

154.10-6. *Form.* Motions shall be typed, legible and include the case caption. Every motion shall:

(a) Contain a caption heading, the name Judiciary- Court of Appeals, the title of the action, the docket number (if known) and a designation as to the purpose or type of motion.

(b) Contain the names of all parties to the action.

(c) Be organized in sections containing a clear designation, which shall include, but is not limited to:

(1) The facts, events or occurrences which make a specific motion for relief necessary;

(2) The specific relief requested by the moving party;

(3) The applicable law or laws to the motion at hand including citations; and

(4) The legal reasons the relief should be granted.

(d) Be on 8 ½ by 11 inch paper. The text shall be double-spaced, but quotations more than two (2) lines may be indented and single-spaced. Headings and footings may be single-spaced. Margins must be at least one (1) inch on all four (4) sides. Page numbers may be placed in the margins, but no other text shall appear there.

(e) Be typed in a plain, roman style, although italics or boldface may be used for emphasis. Case names shall be italicized or underlined.

(f) Not exceed twenty (20) pages, unless the Court permits or directs otherwise.

154.11. Briefs

154.11-1. *Briefs Generally.* Briefs shall be used by the Court to aid the Court in its consideration of the issues presented.

(a) *Form.* The brief shall be 1.5 line spaced, typed, 1 inch margins, and on 8.5 x 11 inch paper, and shall be signed by the party or the party's attorney, if represented. The front cover of a brief shall contain:

- (1) the number of the case centered at the top;
- (2) the name of the court;
- (3) the title of the case;
- (4) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court below;
- (5) the title of the brief, identifying the party or parties for whom the brief is filed; and
- (6) the name, office address, and telephone number of the attorney representing the party for whom the brief is filed, if represented.

(b) *Length.* The brief shall be no more than twenty (20) pages, one (1) sided, in length, not including any addendums, appendices, attachments, or the tables of contents and authorities.

(c) *Filing.* When a party is represented by an attorney, only the attorney shall file briefs and pleadings. The individual shall not file on his or her own unless he or she is pro se. Three (3) copies of each brief shall be filed with the Clerk and one (1) copy to all parties to the appeal.

(d) *Time to Serve and File a Brief.* The Appellant shall serve on the Respondent and file with the Clerk a brief within twenty (20) days after ~~the Notice of Appeal is filed~~ receipt of the Certified Record. The Respondent's brief shall be filed with the Clerk within twenty (20) days of receipt of the Appellant's brief. A reply brief, if necessary, shall be filed within fourteen (14) days of receipt of Respondent's brief. The Court may, on its own, order different time lines for any party's time to file a brief.

(e) *Consequence of Failure to File.* If an Appellant fails to file a brief within the time provided by this Rule, or within an extended time, a Respondent may move to dismiss the appeal. A Respondent who fails to file a brief shall not be heard at oral argument unless the Court grants permission.

154.11-2. *Appellant's Brief.* The Appellant's brief shall contain, under appropriate headings and in the order indicated:

(a) *Content:*

- (1) a table of contents, with page references;
- (2) a table of authorities-cases (alphabetically arranged), statutes, and other authorities-with references to the pages of the brief where they are cited;
- (3) a jurisdictional statement, including:
 - (A) the basis for the ~~Trial Court~~ original hearing body's subject-matter jurisdiction;
 - (B) the basis for the Court of Appeals' jurisdiction;
 - (C) the filing dates establishing the timeliness of the appeal; and
 - (D) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing the Court of Appeals' jurisdiction on some other basis;
- (4) a statement of the issues presented for review;

- (5) a statement of the case briefly indicating the nature of the case, the course of proceedings, and the disposition below;
- (6) a statement of facts relevant to the issues submitted for review with appropriate references to the record;
- (7) a summary of the argument, which shall contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which shall not merely repeat the argument headings;
- (8) the argument, which shall contain:
- (A) Appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the Appellant relies; and
 - (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);
- (9) a short conclusion stating the precise relief sought;
- (10) a short appendix to include:
- (A) relevant docket entries in the ~~Trial Court~~ original hearing body;
 - (B) limited portions of the record essential to an understanding of the issues raised;
 - (C) the judgment, order, or decision in question; and
 - (D) other parts of the record to which the parties wish to direct the Court's attention; and
- (11) where the record is required by law to be confidential, reference to individuals shall be by initials rather than by names.

154.11-3. *Respondent's Brief*. The Respondent's brief shall conform to the same requirements as 154.11-2 (Appellant's Brief).

(a) The Respondent's brief shall address each issue and argument presented by the Appellant's brief.

(b) The Respondent's brief may present additional issues, with the Respondent's positions and arguments on such issues.

154.11-4. *Reply Brief*. The Appellant may file a brief in reply to the Respondent's brief. Unless the Court permits, no further briefs may be filed. A reply brief shall conform to the requirements of 154.11-3 (Respondent's Brief), except that a reply brief shall be no more than fifteen (15) pages, one (1) sided, in length.

154.11-5. *Amicus Curiae Brief*. A person who is not a party to a case but has some interest in the outcome of the case may, upon timely motion and with permission of the Court, submit an amicus curiae brief in support of a party to the action. The Court may, on its own motion, request amicus participation from appropriate individuals or organizations.

(a) Amicus curiae briefs shall conform to the requirements of 154.11-2 (Appellant's Brief), except as provided in the following:

- (1) Amicus curiae shall file his or her brief no later than seven (7) days after the brief of the party being supported is filed. Amicus curiae that do not support either party shall file his or her brief no later than seven (7) days after the Appellant's or Respondent's brief is filed. The Court may grant leave for later filing, specifying the time within which an opposing party shall answer.

154.11-6. *Briefs in a Case Involving Multiple Appellants or Respondent*. In a case involving more than one (1) Appellant or Respondent, including consolidated cases, any number of Appellants or Respondents may join in a brief, and any party may adopt, by reference, a part of another's brief. Parties may also join in reply briefs.

154.12. Oral Argument

154.12-1. *Oral Arguments*. The Court may order oral argument when issues of fact or law remain unclear and/or the positions of the parties on an issue are unclear or otherwise not fully developed. The Court shall direct that an appeal be submitted on briefs only, if:

- (a) The appeal is frivolous;
- (b) The dispositive issue or issues have been authoritatively decided; or
- (c) The facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

154.12-2. *Notice*. The Clerk shall provide notice, of at least ten (10) business days, to all parties when oral arguments are scheduled. The notice shall list the location of the oral argument and the time allowed for each side. The Court shall determine the amount of time for oral arguments. A motion to postpone the argument or to extend the argument timeframe shall be filed at least five (5) business days before the hearing date.

154.12-3. *Citation of Authorities at Oral Argument*. Parties may not cite or discuss a case at an oral argument unless the case has been cited in one (1) of the briefs.

154.13. Entry and Form of Judgment

154.13-1. *Entry*. A judgment is entered when it is noted on the docket. The Clerk shall prepare, sign, and enter the judgment after receiving the Court's opinion.

- (a) The decision and opinion of the Court shall be by a majority vote.
- (b) The Court may:
 - (1) Reverse, affirm, or modify the judgment or order as to any or all parties;
 - (2) Remand the matter to the ~~Trial Court~~original hearing body and order a new trial on any or all issues presented; the order remanding a case shall contain specific instructions for the ~~Trial Court~~original hearing body;
 - (3) If the appeal is from a part of a judgment or order, the Court may reverse, affirm or modify as to the part which is appealed;
 - (4) Direct the entry of an appropriate judgment or order; or
 - (5) Require such other action or further proceeding as may be appropriate to each individual action.

- (c) On the date when judgment is entered, the Clerk shall serve all parties with a copy of the decision and opinion as entered.

154.13-2. *Form*. All decisions of the Court shall be in writing and accompanied by an opinion stating the legal issues and the basis for the decision. Decisions of the Court shall be issued no later than sixty (60) days after the conclusion of oral argument or after the expiration of time to file a *Reply Brief* or *Response Brief* if no oral argument is held.

- (a) The time for issuing a decision and opinion may be extended provided all parties are notified of the extension in writing. The notice of extension shall include the cause for and length of such extension.

154.14. Interest of Judgments

154.14-1. Unless the law provides otherwise, if a money judgment in a civil case is affirmed, whatever interest is allowed by law is payable from the date when the ~~Trial Court~~original hearing body's judgment was entered. If the Court modifies or reverses a judgment with a direction that a money judgment be entered in the ~~Trial Court~~original hearing body, the mandate shall contain instructions about the allowance of interest.

154.15. Penalties

154.15-1. *Frivolous Appeals*. If an appeal or cross-appeal is found by the Court to be frivolous, the Court may award to the successful party costs and attorney's fees.

(a) Costs may be assessed against the Appellant or cross-Appellant, the (cross)-Appellant's attorney, or both the (cross)-Appellant and his/her attorney jointly.

(1) Court costs shall be based on actual cost or defined by the Court.

(b) A finding of a frivolous appeal or cross-appeal shall be made if one (1) or more of the following elements are found by the Court:

(1) The appeal or cross appeal was filed, used, or continued in bad faith, solely for purposes of delay, harassment or injuring the opposing party; or

(2) The party or party's attorney knew, or should have known, that the appeal or cross-appeal was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.

154.15-2. *Delay*. If the Court finds that an appeal or cross-appeal was taken for the purpose of delay, it may award one (1) or more of the following to the opposing party:

(a) Double costs;

(b) A penalty of additional interest not exceeding ten percent (10%) on the award amount affirmed;

(c) Damages caused by the delay; and/or

(d) Attorney's fees.

154.15-3. *Non-Compliance with Rules*. Failure of a party to comply with a requirement of these Rules or an order of the Court, does not affect the jurisdiction of the Court over the appeal but may be grounds for one (1) or more of the following:

(a) Dismissal of the appeal;

(b) Summary reversal of the ~~Trial Court~~original hearing body;

(c) Striking of a paper, document or memorandum submitted by a party;

(d) Imposition of a penalty or costs on a party or party's attorney; and/or

(e) Other action as the Court considers appropriate.

154.16. Substitution of Parties

154.16-1. *Death of a Party*. Death of a party does not automatically end a party's right to appeal.

(a) *After Notice of Appeal Is Filed*. If a party dies after a notice of appeal has been filed or while a proceeding is pending in the Court, the decedent's personal representative may be substituted as a party on motion filed with the Clerk by the representative or by any party. A party's motion shall be served on the representative. If the Decedent has no representative, any party may suggest the death on the record, and the Court may then direct appropriate proceedings.

(b) *Before Notice of Appeal Is Filed-Potential Appellant*. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative, or if there is no personal representative, the decedent's attorney of record, may file a notice of appeal within the time prescribed by these Rules. After the notice of appeal is filed, substitution shall be in accordance with 154.16-1(a).

(c) *Before Notice of Appeal Is Filed-Potential Respondent*. If a party against whom an appeal may be taken dies after entry of a judgment or order in the ~~Trial Court~~original hearing body, but before a notice of appeal is filed, an Appellant may proceed as if the

death had not occurred. After the notice of appeal is filed, substitution shall be in accordance with 154.16-1(a).

154.16-2. *Substitution for a Reason Other Than Death.* If a party needs to be substituted for any reason other than death, the procedure set in 154.16-1(a) applies.

154.17. Costs

154.17-1. *Costs.* Costs in an appeal shall be as follows unless otherwise ordered by the Court:

(a) Against the appellant when the appeal is dismissed or the judgment or order affirmed;

(b) Against the respondent when the judgment or order is reversed.

154.17-2. *Allowable Costs.* Allowable costs shall include:

(a) Cost of printing and assembling the number of copies and briefs and appendices required by the Rules;

(b) Fees charged by the Court and/or Clerk;

(c) Cost of the preparation of the transcript of testimony of the record of appeal; and

(d) Other costs as ordered by the Court.

154.17-3. *Recovery of Costs.* A party seeking to recover costs in the Court shall file a statement of ~~the~~^{the} costs within fourteen (14) days of the filing of the decision of the Court. An opposing party may file, within eleven (11) days after service of the statement, a motion ~~objection~~^{objecting} to the statement of costs.

End.

Adopted BC-04-25-14-B

Chapter 154 Rules of Appellate Procedure

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154.1. Purpose and Policy

154.1-1. *Purpose.* The purpose of this Law is to govern the procedure in all actions and proceedings in the divisions that make up the Court of Appeals within the Judiciary that fall under the jurisdiction of the Tribe.

154.1-2. *Policy.* It is the policy of the Tribe that these rules are to be liberally construed to ensure a speedy, fair, and inexpensive determination of every appeal.

154.2. Adoption, Amendment Repeal

154.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-04-25-14-B.

154.2-2. This Law may be amended or repealed pursuant to the procedures set out in the Oneida Legislative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

154.2-3. 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.

154.2-4. 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.

154.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

154.3. Definitions

154.3-1. 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) “Agent” shall mean a person authorized to act on behalf of another.

(b) “Amicus Curiae” shall mean (literally, friend of the court) a person who is not a party to a case, nor solicited by any of the parties, who files a brief to assist the Court by furnishing information or advice regarding questions of law or fact.

(c) “Answer” shall mean a written response in opposition to a brief or petition.

(d) “Appeal” shall mean a review in the Court of Appeals by appeal or writ of error authorized by law of a judgment or order of the original hearing body.

(e) “Appellant” shall mean a person who files a notice of appeal.

(f) “Attorney” shall mean an Oneida non-attorney advocate as provided by law and other advocate who is admitted to practice law and is presented to the court as the representative or advisor to a party.

(g) “Brief” shall mean a written legal document which aids in the Court’s decision by reciting the facts of the case, the arguments being raised on appeal, and the applicable law.

- (h) "Clerk" shall mean the Clerk of the Court of Appeals.
- (i) "Court" shall mean the Court of Appeals of the Tribe.
- (j) "Cross-Appeal" shall mean an appeal brought by the Respondent against the Appellant after the Appellant has already filed an appeal.
- (k) "Days" shall mean calendar days, unless otherwise specifically stated.
- (l) "Docketed" shall mean an appeal that has been filed and assigned a docket number.
- (m) "Electronic" shall mean an electronic communication system, including, but is not limited to E-mail, used for filing papers with the Court or serving papers on any other party.
- (n) "Interlocutory" shall mean an order or appeal that occurs before the original hearing body issues a final ruling on a case.
- (o) "Joinder" shall mean the joining together of several claims or several parties all in one (l) hearing, provided that the legal issues and the factual situation are the same for all Appellants and Respondents.
- (p) "Judiciary" shall mean the Oneida Tribal Judicial System.
- (q) "Original Hearing Body" shall mean the Trial Court or Family Court of the Tribe or any board, committee, or commission of the Tribe with hearing authority.
- (r) "Petitioner" shall mean a person filing a petition.
- (s) "Pro se" shall mean advocating on one's own behalf before the Court, rather than being represented by an attorney.
- (t) "Reply Brief" shall mean a brief of a party to a legal action in answer to points of law raised in an opponent's brief but not in his or her own.
- (u) "Respondent" shall mean a person adverse to the Appellant.
- (v) "Rules" shall mean the Court of Appeals Rules of Procedure.
- (w) "Stay" shall mean a suspension of a case or a suspension of a particular proceeding, including orders, within a case that prevents enforcement pending appeal or other circumstances.
- (x) "Tribal" or "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.
- (y) "Tribal law" shall mean a code, act, statute, rule, regulation, policy or ordinance enacted by the Oneida General Tribal Council or the Oneida Business Committee.

154.4. General Provisions

154.4-1. These Rules may be used in conjunction with the Rules of Civil Procedure. Matters and proceedings not specifically set forth herein shall be handled in accordance with reasonable justice, as determined by the Court. Where these Rules fail to address an issue, the Federal Rules of Appellate Procedure may be used as a guide, so long as those rules are not inconsistent with existing Oneida Rules of Procedure, Tribal laws, or the customs of the Tribe.

154.4-2. On its own or by a party's motion; the Court may, to expedite its decision or for other good cause, suspend any provision of these Rules in a particular case and order proceedings as it directs.

154.4-3. The Chief Justice of the Court shall, when hearing a case, have the authority to compel the production of documents where such is deemed necessary to rendition of the Court's opinion. There shall not be a new trial in the Court. The Court may review both the factual findings and conclusions of law of the original hearing body.

154.5. Initiating the Appeal

154.5-1. *Right of Appeal.* Any party to a civil action, who is aggrieved by a final judgment, decision or order of the original hearing body, may appeal to the Court of Appeals.

(a) In any case brought on appeal, the Appellant may petition the Court for an order staying the judgment or order. A stay shall be granted in all cases in which it is requested unless plain and obvious injustice would result from granting the stay. The Court may render a stay conditioned upon execution of a bond to guarantee performance of the judgment or order when deemed necessary.

(b) In the event the appeal is denied, the Court shall state the reasons for the refusal within thirty (30) days of the receipt of the Notice of Appeal.

154.5-2. *Notice of Appeal.* Any party who is appealing shall appeal in the manner prescribed by this Rule.

(a) Such party shall file with the Clerk a Notice of Appeal from such judgment or order, together with a filing fee, as set by the Court, within thirty (30) days after the day such judgment or order was rendered. A Notice of Appeal shall not be filed by electronic means.

(1) *Waiver of Fee.* The Chief Judge of the Court may waive the filing fee upon motion for a fee waiver by the Appellant where the Chief Judge is satisfied the Appellant lacks the means to pay the filing fee. The motion shall include an affidavit demonstrating inability to pay and shall accompany the Notice of Appeal.

(b) In addition to the Notice of Appeal and filing fee, the following information shall be provided upon the filing of the notice:

(1) A copy of the written decision of the original hearing body;

(2) A short statement explaining what relief is sought by the Appellant;

(3) A short statement explaining the legal grounds for seeking the appeal and justification for the relief requested;

(4) Name, address and phone numbers of all parties, including respondent; and

(5) Name, address and phone numbers of all party attorneys, if known.

(c) A cash deposit or bond in an amount equal to the amount of any judgment, plus costs assessed by the original hearing body, or a motion for waiver of this requirement, shall accompany the Notice of Appeal. The deposit/bond requirement may be waived only when, in the judgment of the Court, such deposit/bond is not in the interest of justice and such waiver does not unnecessarily harm the judgment holder. The motion for waiver of the deposit/bond requirement shall be requested with notice to all parties. If the motion for waiver is denied, the deposit/bond shall be submitted within ten (10) days of the denial. The appeal shall be dismissed if the deposit/bond is not paid or waived.

(1) *Exception.* The Tribe, or an officer or agency of the Tribe shall be exempt from the requirement of providing any cash deposit or bond. The exemption under this section shall be automatic and shall not require a motion or waiver.

(d) An appeal shall not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.

154.5-3. *Perfection of Notice.* If the appellant fails to provide a completed Notice of Appeal Form, the filing fee or waiver form, or any required documents or materials, the Appellant shall be notified of any filing deficiencies by the Clerk within five (5) business days and shall have five (5) business days from receipt of this notice to perfect the filing. Failure to perfect the filing within five (5) business days may result in the non-acceptance of the appeal.

154.6. Appeal by Permission

154.6-1. *Appeal by Permission.* An appeal from an interlocutory order may be sought by filing a Petition for Permission to Appeal with the Clerk within ten (10) business days after the entry of

such order with proof of service on all other parties to the action. Within ten (10) business days after service of the petition an adverse party may file an Answer in opposition. A decision shall be issued in a reasonable time, but no longer than thirty (30) days from the first deliberation unless good cause to extend the deadline is found by the Court. This extension shall be in writing. The petition shall contain:

- (a) a statement of the facts necessary to develop an understanding of the question of law determined by the order of the original hearing body; and
- (b) a statement of the question itself; and
- (c) a statement of the reasons why substantial basis exists for a difference of opinion on the question;
- (d) the relief sought; and
- (e) why an immediate appeal may:
 - (1) materially advance the termination of the litigation;
 - (2) protect the petitioner from substantial or irreparable injury; or
 - (3) clarify an issue of general importance in the administration of justice; and
- (f) The petition shall include or have a copy of the order of the original hearing body attached thereto.

154.7. Joint, Consolidated, and Cross Appeals

154.7-1. *Joint or Consolidated Appeals.* When two (2) or more parties are entitled to appeal from an original hearing body judgment or order, and their interests make joinder practicable, the parties may file a joint notice of appeal. The parties may then proceed on appeal as a single Appellant.

(a) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the Court.

(b) If the persons do not file a joint appeal or elect to proceed as a single Appellant, or if their interests are such as to make joinder impractical, the person shall proceed as Appellant and co-Appellant, with each co-Appellant to have the same procedural rights and obligations as the Appellant. The Appellant shall be the person who filed first.

154.7-2. *Cross Appeal.* A Respondent who seeks modification of the judgment or order appealed from or of another judgment or order entered in the same action or proceeding shall file a notice of cross-appeal within the time established for the filing of a notice of appeal or ten (10) business days after the receipt of the notice of appeal, whichever is later. The Respondent shall be listed as the cross-Appellant. A cross-Appellant has the same rights and obligations as an Appellant under these Rules.

154.8. Service, Filing and Certification

154.8-1. A paper required or permitted to be filed in the Court shall be filed with the Clerk. The filing party shall supply the Clerk with the original papers and three (3) copies. The filing party shall also provide one (1) copy of the papers for each opposing party or party's attorney. Filing shall be complete by the close of business on the day which the filing is due. The following methods of filing shall be used, in order of preference:

(a) *In Person:* A party to a pending case, or the party's attorney or authorized Agent may file papers in person before the Clerk.

(b) *Electronic:* A party to a pending case may file papers electronically to the electronic address, designated for such filings, of the Clerk. A paper filed by electronic means shall constitute a written paper for the purpose of applying these Rules. Upon receipt by the

Clerk, any paper filed electronically shall be deemed filed, signed and verified by the filing party.

(c) *By Mail*: A party to a pending case may file papers by certified mail with return receipt, with cover documents to be addressed to the Clerk. Filing shall not be completed upon mailing, but only upon receipt.

(1) Certified mail shall include the filing of papers through the Tribal certified interoffice mail system.

154.8-2. *Proof of Service*.

(a) A paper presented for filing shall contain either of the following:

(1) an acknowledgment of service by the person served; or

(2) proof of service consisting of a statement by the person who made service certifying:

(A) the date and manner of service;

(B) the names of the persons served;

(C) the mail or electronic addresses, facsimile numbers of the persons served, or the addresses of the places of delivery, as appropriate for the manner of service; and

(D) if served electronically, a writing by the person being served consenting to service by electronic means.

154.8.3. *Service of All Papers Required*. A party shall, at or before the time of filing a paper, serve a copy on all other parties to the appeal. Any party may be served by electronic means, if such party consents in writing to service by electronic means. Service on a party represented by an attorney shall be made on the party's attorney.

154.8-4. *Certification of the Record*. Upon receipt of the Notice of Appeal and Proof of Service, the Clerk shall prepare, certify and file with the Court, within five (5) business days, all papers comprising the record of the case appealed. The Certification of the Record shall be served on all parties.

(a) The record of the case shall consist of all papers filed with the original hearing body, exhibits, the transcript/recording of the proceedings, and the final decision of the original hearing body.

154.9. Time Computation

154.9-1. *Deadline Computation*. Time lines are determined by designating the day after notice is received as day one. Computation involving calendar days shall include intermediate Tribally observed holidays and weekend days, provided that if the last day of the period falls on a Saturday, Sunday or Tribally observed holiday, then the next business day shall be the due date. Computation involving business days shall not include intermediate weekend days or Tribally observed holidays. All papers due to be filed with the Clerk are due prior to the close of business on the last day of the time period.

(a) If notice is mailed, then three (3) days shall be added to the time line in order to determine the due date.

154.9-2. *Extension of Time*. For good cause, the Court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the Court shall not extend the time to file:

(a) a notice of appeal; or

(b) a petition for permission to appeal.

154.9-3. *Time to Complete.* Unless time is extended by the Court with the knowledge of the parties, the time from the filing of the Notice of Appeal to the completion and entry of the final written decision shall not exceed one hundred and twenty (120) days.

154.10. Motions

154.10-1. *Application for Relief.* An application for an order or other relief in a docketed case shall be made by motion unless these Rules prescribe another form. A motion shall be in writing unless the Court permits otherwise. The moving party shall file all motions with the Clerk and serve opposing parties as provided in 154.8.

154.10-2. *Contents of a Motion.* A motion shall state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

- (a) Any affidavit or other paper necessary to support a motion shall be served and filed with the motion. An affidavit shall contain only factual information, not legal argument. A motion seeking substantive relief shall include a copy of the original hearing body's opinion as a separate exhibit.

154.10-3. *Response to a Motion.* Any party may file a response to a motion, in accordance with 154.11-2. The response shall be filed within ten (10) days after service of the motion unless the Court shortens or extends the time.

154.10-4. *Motion for a Procedural Order.* The Court may act on a motion for a procedural order at any time without awaiting a response. A party adversely affected by the Court's action may file a motion to reconsider, vacate, or modify that action within five (5) days of receipt of notice of the decision.

154.10-5. *Motion for Voluntary Dismissal.* An appellant may dismiss an appeal by filing a motion to dismiss. If not yet docketed in the Court, then the motion shall be filed in the original hearing body. The dismissal of an appeal shall not affect the status of a cross-appeal or the right of a respondent to file a cross appeal.

154.10-6. *Form.* Motions shall be typed, legible and include the case caption. Every motion shall:

- (a) Contain a caption heading, the name Judiciary- Court of Appeals, the title of the action, the docket number (if known) and a designation as to the purpose or type of motion.
- (b) Contain the names of all parties to the action.
- (c) Be organized in sections containing a clear designation, which shall include, but is not limited to:
 - (1) The facts, events or occurrences which make a specific motion for relief necessary;
 - (2) The specific relief requested by the moving party;
 - (3) The applicable law or laws to the motion at hand including citations; and
 - (4) The legal reasons the relief should be granted.
- (d) Be on 8 ½ by 11 inch paper. The text shall be double-spaced, but quotations more than two (2) lines may be indented and single-spaced. Headings and footings may be single-spaced. Margins must be at least one (1) inch on all four (4) sides. Page numbers may be placed in the margins, but no other text shall appear there.
- (e) Be typed in a plain, roman style, although italics or boldface may be used for emphasis. Case names shall be italicized or underlined.
- (f) Not exceed twenty (20) pages, unless the Court permits or directs otherwise.

154.11. Briefs

154.11-1. *Briefs Generally.* Briefs shall be used by the Court to aid the Court in its consideration of the issues presented.

(a) *Form.* The brief shall be 1.5 line spaced, typed, 1 inch margins, and on 8.5 x 11 inch paper, and shall be signed by the party or the party's attorney, if represented. The front cover of a brief shall contain:

(1) the number of the case centered at the top;

(2) the name of the court;

(3) the title of the case;

(4) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court below;

(5) the title of the brief, identifying the party or parties for whom the brief is filed; and

(6) the name, office address, and telephone number of the attorney representing the party for whom the brief is filed, if represented.

(b) *Length.* The brief shall be no more than twenty (20) pages, one (1) sided, in length, not including any addendums, appendices, attachments, or the tables of contents and authorities.

(c) *Filing.* When a party is represented by an attorney, only the attorney shall file briefs and pleadings. The individual shall not file on his or her own unless he or she is pro se. Three (3) copies of each brief shall be filed with the Clerk and one (1) copy to all parties to the appeal.

(d) *Time to Serve and File a Brief.* The Appellant shall serve on the Respondent and file with the Clerk a brief within twenty (20) days after receipt of the Certified Record. The Respondent's brief shall be filed with the Clerk within twenty (20) days of receipt of the Appellant's brief. A reply brief, if necessary, shall be filed within fourteen (14) days of receipt of Respondent's brief. The Court may, on its own, order different time lines for any party's time to file a brief.

(e) *Consequence of Failure to File.* If an Appellant fails to file a brief within the time provided by this Rule, or within an extended time, a Respondent may move to dismiss the appeal. A Respondent who fails to file a brief shall not be heard at oral argument unless the Court grants permission.

154.11-2. *Appellant's Brief.* The Appellant's brief shall contain, under appropriate headings and in the order indicated:

(a) *Content:*

(1) a table of contents, with page references;

(2) a table of authorities-cases (alphabetically arranged), statutes, and other authorities-with references to the pages of the brief where they are cited;

(3) a jurisdictional statement, including:

(A) the basis for the original hearing body's subject-matter jurisdiction;

(B) the basis for the Court of Appeals' jurisdiction;

(C) the filing dates establishing the timeliness of the appeal; and

(D) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing the Court of Appeals' jurisdiction on some other basis;

(4) a statement of the issues presented for review;

(5) a statement of the case briefly indicating the nature of the case, the course of proceedings, and the disposition below;

(6) a statement of facts relevant to the issues submitted for review with appropriate references to the record;

(7) a summary of the argument, which shall contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which shall not merely repeat the argument headings;

(8) the argument, which shall contain:

(A) Appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the Appellant relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(9) a short conclusion stating the precise relief sought;

(10) a short appendix to include:

(A) relevant docket entries in the original hearing body;

(B) limited portions of the record essential to an understanding of the issues raised;

(C) the judgment, order, or decision in question; and

(D) other parts of the record to which the parties wish to direct the Court's attention; and

(11) where the record is required by law to be confidential, reference to individuals shall be by initials rather than by names.

154.11-3. *Respondent's Brief.* The Respondent's brief shall conform to the same requirements as 154.11-2 (Appellant's Brief).

(a) The Respondent's brief shall address each issue and argument presented by the Appellant's brief.

(b) The Respondent's brief may present additional issues, with the Respondent's positions and arguments on such issues.

154.11-4. *Reply Brief.* The Appellant may file a brief in reply to the Respondent's brief. Unless the Court permits, no further briefs may be filed. A reply brief shall conform to the requirements of 154.11-3 (Respondent's Brief), except that a reply brief shall be no more than fifteen (15) pages, one (1) sided, in length.

154.11-5. *Amicus Curiae Brief.* A person who is not a party to a case but has some interest in the outcome of the case may, upon timely motion and with permission of the Court, submit an amicus curiae brief in support of a party to the action. The Court may, on its own motion, request amicus participation from appropriate individuals or organizations.

(a) Amicus curiae briefs shall conform to the requirements of 154.11-2 (Appellant's Brief), except as provided in the following:

(1) Amicus curiae shall file his or her brief no later than seven (7) days after the brief of the party being supported is filed. Amicus curiae that do not support either party shall file his or her brief no later than seven (7) days after the Appellant's or Respondent's brief is filed. The Court may grant leave for later filing, specifying the time within which an opposing party shall answer.

154.11-6. *Briefs in a Case Involving Multiple Appellants or Respondent.* In a case involving more than one (1) Appellant or Respondent, including consolidated cases, any number of Appellants or Respondents may join in a brief, and any party may adopt, by reference, a part of another's brief. Parties may also join in reply briefs.

371 **154.12. Oral Argument**

372 154.12-1. *Oral Arguments.* The Court may order oral argument when issues of fact or law
373 remain unclear and/or the positions of the parties on an issue are unclear or otherwise not fully
374 developed. The Court shall direct that an appeal be submitted on briefs only, if:

- 375 (a) The appeal is frivolous;
376 (b) The dispositive issue or issues have been authoritatively decided; or
377 (c) The facts and legal arguments are adequately presented in the briefs and record, and
378 the decisional process would not be significantly aided by oral argument.

379 154.12-2. *Notice.* The Clerk shall provide notice, of at least ten (10) business days, to all parties
380 when oral arguments are scheduled. The notice shall list the location of the oral argument and
381 the time allowed for each side. The Court shall determine the amount of time for oral arguments.
382 A motion to postpone the argument or to extend the argument timeframe shall be filed at least
383 five (5) business days before the hearing date.

384 154.12-3. *Citation of Authorities at Oral Argument.* Parties may not cite or discuss a case at an
385 oral argument unless the case has been cited in one (1) of the briefs.
386

387 **154.13. Entry and Form of Judgment**

388 154.13-1. *Entry.* A judgment is entered when it is noted on the docket. The Clerk shall prepare,
389 sign, and enter the judgment after receiving the Court's opinion.

- 390 (a) The decision and opinion of the Court shall be by a majority vote.
391 (b) The Court may:
392 (1) Reverse, affirm, or modify the judgment or order as to any or all parties;
393 (2) Remand the matter to the original hearing body and order a new trial on any
394 or all issues presented; the order remanding a case shall contain specific
395 instructions for the original hearing body;
396 (3) If the appeal is from a part of a judgment or order, the Court may reverse,
397 affirm or modify as to the part which is appealed;
398 (4) Direct the entry of an appropriate judgment or order; or
399 (5) Require such other action or further proceeding as may be appropriate to each
400 individual action.
401 (c) On the date when judgment is entered, the Clerk shall serve all parties with a copy of
402 the decision and opinion as entered.

403 154.13-2. *Form.* All decisions of the Court shall be in writing and accompanied by an opinion
404 stating the legal issues and the basis for the decision. Decisions of the Court shall be issued no
405 later than sixty (60) days after the conclusion of oral argument or after the expiration of time to
406 file a *Reply Brief* or *Response Brief* if no oral argument is held.

- 407 (a) The time for issuing a decision and opinion may be extended provided all parties are
408 notified of the extension in writing. The notice of extension shall include the cause for
409 and length of such extension.
410

411 **154.14. Interest of Judgments**

412 154.14-1. Unless the law provides otherwise, if a money judgment in a civil case is affirmed,
413 whatever interest is allowed by law is payable from the date when the original hearing body's
414 judgment was entered. If the Court modifies or reverses a judgment with a direction that a
415 money judgment be entered in the original hearing body, the mandate shall contain instructions
416 about the allowance of interest.
417

154.15. Penalties

154.15-1. *Frivolous Appeals.* If an appeal or cross-appeal is found by the Court to be frivolous, the Court may award to the successful party costs and attorney's fees.

(a) Costs may be assessed against the Appellant or cross-Appellant, the (cross)-Appellant's attorney, or both the (cross)-Appellant and his/her attorney jointly.

(1) Court costs shall be based on actual cost or defined by the Court.

(b) A finding of a frivolous appeal or cross-appeal shall be made if one (1) or more of the following elements are found by the Court:

(1) The appeal or cross appeal was filed, used, or continued in bad faith, solely for purposes of delay, harassment or injuring the opposing party; or

(2) The party or party's attorney knew, or should have known, that the appeal or cross-appeal was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.

154.15-2. *Delay.* If the Court finds that an appeal or cross-appeal was taken for the purpose of delay, it may award one (1) or more of the following to the opposing party:

(a) Double costs;

(b) A penalty of additional interest not exceeding ten percent (10%) on the award amount affirmed;

(c) Damages caused by the delay; and/or

(d) Attorney's fees.

154.15-3. *Non-Compliance with Rules.* Failure of a party to comply with a requirement of these Rules or an order of the Court, does not affect the jurisdiction of the Court over the appeal but may be grounds for one (1) or more of the following:

(a) Dismissal of the appeal;

(b) Summary reversal of the original hearing body;

(c) Striking of a paper, document or memorandum submitted by a party;

(d) Imposition of a penalty or costs on a party or party's attorney; and/or

(e) Other action as the Court considers appropriate.

154.16. Substitution of Parties

154.16-1. *Death of a Party.* Death of a party does not automatically end a party's right to appeal.

(a) *After Notice of Appeal Is Filed.* If a party dies after a notice of appeal has been filed or while a proceeding is pending in the Court, the decedent's personal representative may be substituted as a party on motion filed with the Clerk by the representative or by any party. A party's motion shall be served on the representative. If the Decedent has no representative, any party may suggest the death on the record, and the Court may then direct appropriate proceedings.

(b) *Before Notice of Appeal Is Filed-Potential Appellant.* If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative, or if there is no personal representative, the decedent's attorney of record, may file a notice of appeal within the time prescribed by these Rules. After the notice of appeal is filed, substitution shall be in accordance with 154.16-1(a).

(c) *Before Notice of Appeal Is Filed-Potential Respondent.* If a party against whom an appeal may be taken dies after entry of a judgment or order in the original hearing body, but before a notice of appeal is filed, an Appellant may proceed as if the death had not

occurred. After the notice of appeal is filed, substitution shall be in accordance with 154.16-1(a).

154.16-2. *Substitution for a Reason Other Than Death.* If a party needs to be substituted for any reason other than death, the procedure set in 154.16-1(a) applies.

154.17. Costs

154.17-1. *Costs.* Costs in an appeal shall be as follows unless otherwise ordered by the Court:

(a) Against the appellant when the appeal is dismissed or the judgment or order affirmed;

(b) Against the respondent when the judgment or order is reversed.

154.17-2. *Allowable Costs.* Allowable costs shall include:

(a) Cost of printing and assembling the number of copies and briefs and appendices required by the Rules;

(b) Fees charged by the Court and/or Clerk;

(c) Cost of the preparation of the transcript of testimony of the record of appeal; and

(d) Other costs as ordered by the Court.

154.17-3. *Recovery of Costs.* A party seeking to recover costs in the Court shall file a statement of the costs within fourteen (14) days of the filing of the decision of the Court. An opposing party may file, within eleven (11) days after service of the statement, a motion objecting to the statement of costs.

End.

Adopted BC-04-25-14-B



Legislative Operating Committee

October 15, 2014

Petition: Hold a GTC Meeting to Address Tribal Election Issues

Submission Date: September 10, 2014

☐ Public Meeting:
☐ Emergency Enacted:
 Expires:

LOC Sponsor: Tehassi Hill

Summary: *This petition requests a GTC vote on “whether: (1) Tribal elections include the SEOTS polling site, including the inaugural Judiciary Election as was GTC's intent by voting to include the Judiciary in the 2014 General Election; (2) to nullify any Judiciary Election that excludes the SEOTS polling site that may have occurred before the requested meeting is held; (3) a new Judiciary Caucus be held & that due notices be made in Kalihwisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election; (4) to address other Tribal election issues.”*

9/10/14 OBC: Motion by Melinda J. Danforth to direct the Law, Finance and Legislative Reference offices submit the requested analyses to the Tribal Secretary's office within 45 days, and that a progress report be submitted in 30 days, seconded by Lisa Summers. Motion carried unanimously.

9/17/14 LOC: Motion by Tehassi Hill to add the Petition: Hold a GTC Meeting to Address Tribal Election Issues to the Active Files List, seconded by Fawn Billie. Motion carried unanimously. *Note: Tehassi Hill will be the sponsor.*

10/01/14 LOC: Motion by Fawn Billie to forward the memo regarding the petition to the Oneida Business Committee as an update; seconded by Tehassi Hill. Motion carried unanimously.

10/08/14 OBC: The OBC accepted the LOC update memo as FYI.

Next Steps:

- LOC to consider forwarding the attached analysis regarding the Petition: Hold a GTC Meeting to Address Tribal Election Issues to the OBC for consideration.

Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Lynn A. Franzmeier, Attorney
Taniquele J. Thurner, Legislative Analyst
Candice E. Skenandore, Legislative Analyst



P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214

<https://oneida-nsn.gov/Laws>

Memorandum

TO: Oneida Business Committee
FROM: Legislative Reference Office
DATE: October 22, 2014
RE: Petition: Hold a GTC Meeting to Address Tribal Election Issues

On September 10, 2014, the Oneida Business Committee (OBC) directed the Legislative Reference Office to complete a legislative analysis on the verified petition which requests a General Tribal Council (GTC) meeting be held to address Tribal election issues.

This petition is requesting a GTC meeting be held in a timely manner on a Saturday or Sunday starting no later than 1 p.m. to allow for greater membership participation. The petition has four components, asking GTC to consider the following:

- Allow all Tribal elections to include the South Eastern Oneida Tribal Services (SEOTS) polling site, including the inaugural Judiciary election. The petitioners claim that this was GTC's intent because GTC voted to include the Judiciary in the 2014 General Election;
- Nullify any Judiciary election that excludes the SEOTS polling site that may have occurred before the requested meeting is held;
- That a new Judiciary caucus be held and that due notices be made in the Kalihwisaks and prominent places ten days prior to the caucus and the inaugural Judiciary election; and
- Address other Tribal election issues.

SEOTS Polling Site to be utilized in All Tribal Elections

This petition is asking GTC to consider allowing all Tribal elections to include the SEOTS polling site, including the inaugural Judiciary election. The Milwaukee polling site has been used in General Elections since the adoption of OBC Resolution #03-13-02-O which, in 2002, approved a facility in Milwaukee, Wisconsin as a second polling site for Oneida triennial elections.

Under the Election Law, elections are required to be held in an Oneida Tribal facility(s) as determined by the Election Board; however, no further direction is given to the Election Board as to what constitutes an Oneida Tribal facility [*See Election Law 2.9-2*].

GTC has shown recent support for the continued use of a second polling site in Milwaukee for General Elections. A petition was presented at the October 27, 2013 GTC meeting asking GTC to consider adopting a resolution for the "Dissolution of the second polling site" for triennial elections. This Resolution suggested that it would be fiscally responsible for voters to present themselves at the "official polling site" located within the Reservation [*See*

GTC Meeting Materials, October 27, 2013, pg. 60 and 61]. GTC voted to allow the voting process in Milwaukee to continue [See GTC Meeting Minutes for October 27, 2013].

A survey was conducted in southeast Wisconsin asking Tribal members about their participation in Tribal government. The survey produced 258 responses and of those responses, 36% stated that they attended a GTC meeting(s) in the past year while 38% stated that they voted in the 2008 General Election. Of those that did not vote in the election, the most common reasons were distance/location (26%) and lack of information (26%).

In 2011, approximately 1578 Tribal members 21 years old or older lived in southeast Wisconsin. During the 2011 General Election, 199 votes were cast at the SEOTS polling site. There are approximately 1500 Tribal members that currently live in the Milwaukee area and are 21 years old or older. In the July 2014 General Election, 160 Tribal members voted at the SEOTS polling site.¹

Nullify any Judiciary Election that Excludes the SEOTS Polling Site

The Petition is asking GTC to consider nullifying any Judiciary election that excludes the SEOTS polling site. The Judiciary election was initially set to occur during the 2014 General Election, which included polling sites in both Oneida and Milwaukee; however, GTC decided to hold a special election after a misunderstanding regarding the qualifications of judges. GTC scheduled the special election for August 23, 2014; however, the Oneida Appeals Commission granted a stay on the special election because the second polling site in Milwaukee was not being used. OBC Resolution #03-13-02-O only requires the Milwaukee polling site to be used for triennial elections which this special election was not. On September 2, 2014, the OBC designated a second polling site in Milwaukee for the special Judiciary election and the Election Board set the election for September 27, 2014. The special Judiciary election was held on September 27, 2014 and the SEOTS polling site was used. A total of 493 votes were cast in this election, and of those, 73 were cast at the SEOTS polling site. The cost of the special Judiciary election, including compensation for Election Board members, was \$8019.83. Of this total cost, \$3921.45 went towards the SEOTS polling site which included food, stipends, hotel and per diem expenses.² A Judiciary election has not been held that excludes the SEOTS polling site; therefore, GTC would not need to consider nullifying the election based on the petition request.

New Judiciary Caucus be Held

The Petition asks that a new Judiciary caucus be held and that due notice be made in the Kalihwisaks and prominent places ten days prior to the caucus and the inaugural Judiciary election. A Judiciary caucus was held on July 6, 2014, and the election stemming from that caucus was held on September 27, 2014. The Election Law requires a caucus of elections, other than the general election, to be held at least 45 calendar days prior to the election, but does not address holding multiple caucuses for one election [*See Election Law 2.6-1*]. The Judiciary caucus and special election complied with the requirements set out in the Election Law.

Address other Tribal Election Issues

The petition requests addressing other Tribal election issues at the GTC meeting; however, it is unknown if this discussion will lead to any impact on Tribal legislation.

¹ Figures received from the Tribal Statistician

² Figures received from the Election Board

Legislative Operating Committee

REVISED Page 49 of 67



Agenda Request Form

- 1) Request Date: _____
- 2) Contact Person(s): _____ Dept: _____
Phone Number: _____ Email: _____
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee

List any supporting materials included and submitted with the Agenda Request Form

- 1) _____ 3) _____
- 2) _____ 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:

- 6) Please List all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☐ No
If yes, please indicate why: _____

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org
or
Legislative Operating Committee (LOC)
P.O. Box 365
Oneida, WI 54155
Phone 920-869-4376

Chapter XX
Sanctions and Penalties for Violations of Tribal Policy or Law for
Elected or Appointed Government Officials

Oneida Word - TBD
to be determined

X.1-1 Policy and Purposes
X.2-1 Definitions
X.3-1 Government
X.4-1 Employees

X.5-1 Media/Public Relations
X.6-1 Gifts and Gratuities
X.7-1 Enforcement
X.8-1 Reporting

1.1 Purpose. It is the purpose of this law to provide sanctions and penalties for violations of tribal law or policy by Elected and Appointed Government Officials; no government official shall avoid a penalty or sanction where there is absence of a sanction or penalty from tribal law or policy. The law is also intended to provide the scope of sanctions and penalties, as well as provide a framework for implementation. Use of these sanctions and penalties are required where tribal law or policy is absent of identified minimum sanctions or penalties for elected or appointed officials.

2.2 Definitions. This section shall govern the definitions of words or phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

2.2-1. Reserved.

2.2-2. Enterprise. An enterprise includes all entities of the Oneida Tribe of Indians of Wisconsin that are engaged in a business or activity with the expectation to generate revenue or make a profit as a primary function at any time during a fiscal cycle.

2.2-3. Good Mind Principle Kahletsyalúsla - The heart felt encouragement of the best in each of us.

2.2-4. Good Mind Principle Kanolukhwásla - Compassion, caring, identity and joy of being.

2.2-5. Good Mind Principle Ka?nikuhli-yó - The openness of the good spirit and mind.

2.2-6. Good Mind Principle Ka?tshatst^sla – The strength of belief and vision as a People.

2.2-7. *Good Mind Principle Ka?nikuhliyó* - The use of the good words about ourselves, our Nation, and our future.

2.2-8. *Good Mind Principle Yukwahwa?sie?* – Our Family and our Nation

2.2-9. *Good Mind Principle Yukwatsístay^* - Our fire, our spirit within each one of us.

2.2-10. *Government Official*. A government official includes all persons who are elected to the Oneida Business Committee, any other person elected or appointed to a board, committee, or commission created by the Oneida Business Committee or Oneida General Tribal Council, or any person appointed to a board, committee or commission to fill a vacancy.

2.2-11. *Notice*. Shall mean written correspondence from a board, committee or commission which provides a government official, the sanction(s) or penalties imposed upon them through official board, committee or commission action.

2.2-12. *Official Tribal Newspaper*. Shall mean the Kalihwisaks.

2.2-13. *Oneida Tribe or Tribe*. Oneida Tribe or Tribe shall mean the Oneida Tribe of Indians of Wisconsin.

2.2-14. *Tribal Court*. Shall mean a court with the Oneida Judiciary adopted by General Tribal Council on January 7, 2013.

3.3. Government Officials. The Oneida Tribe's expectation is that government officials will uphold their oaths of office and demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all activities in order to inspire public confidence and trust in themselves and in the Oneida Tribe of Indians of Wisconsin.

3.3-1. Government official(s) shall strive to:

- (a) Uphold their Oath of Office,
- (b) Adhere to the Code of Ethics, including the practice of identified standards and attributes in the conduct of day to day activities,
- (c) Utilize and practice the good mind principles.
- (e) Support, comply with and adhere to the laws, customs, and traditions of the Tribe as well as applicable state and federal law.

- (f) Where there appears to be a conflict of law, seek legal advice to clarify the conflict, as well as actively pursue changes to the law to avoid future conflicts of law.

3.3-2. The Government Official shall be responsible for his or her actions.

- (a) Integrity is a personal responsibility and no one may justify an illegal act by claiming it was directed.
- (b) No one, regardless of rank, is ever authorized to direct an employee to commit an illegal or unethical act.

4.4 Sanctions and Penalties. Sanctions and penalties shall be utilized for government officials for violations of tribal law or policy. With the exception of censure, all sanctions and penalties shall be approved by majority vote of the Business Committee or the respective government official's board, committee, or commission.

4.4-1. Sanctions and penalties include application of a single penalty or sanction, or a combination of penalties or sanctions as identified herein:

- (a) Public apology presented through the Tribe's official newspaper, the Kalihwisaks,
- (b) Verbal warning, including notice to the official of expectations to comply with the tribe's code of ethics, the tribal law, custom or tradition violated, and written acknowledgement of those expectations,
- (c) Written warning, including notice to the official of expectations to comply with the tribe's code of ethics, the tribal law, custom or tradition violated, and written acknowledgement of those expectations,
- (d) Censure of published news articles, other public opinions or speaking on behalf of the Business Committee, or the board, committee or commission elected or appointed to,
 - a. Censure shall not exceed a six (6) months period per violation, and
 - b. Must be approved by a 2/3 vote of the government official's respective board, committee or commission
- (e) Community service, not to exceed 10 hours per violation and

- a. Community service hours must be completed within 90 days of issuance, or the official will be subject to additional sanctions or penalties,
- (f) A fine, suspension, suspension of pay or stipend forfeiture as identified,
- (g) Termination of appointment for appointed officials,
- (h) Subject to removal for elected officials

4.2-2 The administration of three (3) sanctions or penalties for elected officials is grounds for a presentation to General Tribal Council to determine if removal proceeding should begin, provided that;

- (a) the Business Committee shall be responsible for administering the process to bring such reports to the General Tribal Council
- (b) the three (3) accumulated sanctions or penalties are within the same term of office for which the official engaged in the violation

4.4-3 Non-Monetary Sanctions.

- (a) Within 15 days of being noticed of a non-monetary sanction or penalty, the government official shall comply with sanction by completing the applicable action(s):
 1. submitting a written apology to the tribe's official newspaper,
 2. scheduling volunteer hours with a tribal program or a non-profit organization, and providing a written notice to the Business Committee or issuing board, committee, or commission of the location and dates service hours are to be completed,
 3. providing written acknowledgement to the Business Committee or issuing board, committee, or commission of any verbal or written warning(s)
 4. placing public or published comments on the Business Committee or issuing board, committee, or commission agenda for approval for the duration of the censure.

4.4-4 Monetary Penalties. Monetary penalties may only be

- (a) Minimum of \$50 and maximum of \$100 per violation, for the first offense.
- (b) Minimum of \$100 and maximum of \$200 per violation for the second offense.
- (c) Minimum of \$200 and maximum of \$500 per violation for the third offense.
- (e) Each day a government official is not in compliance with an approved sanction or penalty, it shall constitute a new violation.
- (f) One (1) day suspension

5.1 Implementation of Monetary Penalties. The Oneida Police Department shall be responsible for issuing monetary penalties.

- (a) The Oneida Police Department shall develop and maintain operating procedures on how issued fines shall be administered to government officials.
 - 1. The operating procedures shall be reviewed by the Oneida Police Department at least annually to ensure compliance with this law.
- (b) Penalties issued must be issued within five (5) business days of the date approved.
- (c) Penalties must be paid in full within 30 days of issuance and are payable to the Oneida Tribe.
- (d) Penalties unpaid at the end of the 30 days shall be garnished from the individual's pay
 - 1. Full-time officials garnishment rate shall be a minimum of \$100.00 per pay check until paid in full,
 - 2. Part-time officials garnishment rate shall be a minimum of \$50.00 per pay check until paid in full,
 - 3. Officials who receive stipend payments shall have stipends forfeited until paid in full.
- (e) A request for an extension on a fine payment can be made by filing a request with the tribal court; provided that no extension shall exceed 60 additional days.

1. Individuals whose fines are not paid in full within the extension period are subject to garnishment as outlined in X.4-2(d), and can be subjected to applicable civil or criminal violations in accordance with tribal law, or in absence of tribal law, local or state ordinances.

- (f) Funds received from the issuance of sanctions or penalties shall be assigned to the Oneida Language Endowment Fund.

5.4-3. Implementation of Pay Suspensions.

- (a) The Human Resource and Payroll Departments shall be responsible for oversight and administration of pay suspensions.

1. The Human Resources Department shall develop internal operating procedures on how the administer pay suspensions for government officials within 60 days of the law being passed.

2. The internal operating procedures shall be reviewed by the Human Resources department at least annually to ensure compliance with this law.

- (b) The pay suspension must be taken consecutively.

- (c) Any pay suspension issued must be administered within two weeks of the expiration of 5.1(c).

- (d) Personal, vacation or flex time may not be utilized to cover the hours under suspension.

6.7. Filing a Violation Notice. The Tribe expects individuals to report any violation of tribal law, as well as any other dishonest or illegal acts of which they become aware in the workplace. The Tribe will not tolerate reprisals against any Government Official(s), Employee(s) or Community Members who, in good faith, makes such reports.

171 6.7-1. Individuals may file notices of violations with the respective government officials' board,
172 committee or commission Chairperson. If the notice relates to the Chairperson, then the
173 notice can be filed with the Vice-Chairperson.

- 174 (a) notices of violations must in writing and signed,
175 (b) within a total of 60 days from the receipt of notice, the board, committee, or
176 commission shall:
- 177 1. acknowledge receipt of the notice,
 - 178 2. hold a special meeting to address the notice,
 - 179 3. determine appropriate sanction or penalty to be applied,
 - 180 4. provide written notice to the affected government official, and
 - 181 5. provide written notice to the other appropriate tribal agencies for
182 implementation.

183 **7.1 Reporting.** Each board, committee and commission is responsible to report violations
184 reported to them for both the Annual and Semi Annual General Tribal Council meetings.
185 This report shall include a summary of complaint(s) received, implemented sanctions or
186 penalties, and the respective outcomes.



Legislative Operating Committee AGENDA REFERRAL FORM



1) Today's Date: 10 / 10 / 14 Date of Referral Action: 10 / 08 / 14

2) Entity that referred this item to LOC: OBC

3) Individuals or Entities to contact regarding this item: Norbert Hill; Cheryl Vandenberg

4) Item referred: Higher Education Law or Policy

5) Background information, including applicable actions and dates: On 10/08/14, the OBC deferred a Higher Education Law or Policy to the LOC to create requirements for the Higher Education Program to follow based on the Higher Education Scholarship Resolution.

6) Due date: N/A

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376



Legislative Operating Committee AGENDA REFERRAL FORM



1) Today's Date: 10 / 10 / 14 Date of Referral Action: 10 / 08 / 14

2) Entity that referred this item to LOC: OBC

3) Individuals or Entities to contact regarding this item: Tribal Secretary's Office

4) Item referred: Petition: Create a Support System for Tribal Members Engaged with Oneida Judiciary

5) Background information, including applicable actions and dates: A petition was submitted to the Tribal Secretary's Office on 9/8/14 to "create a support system or paralegals, advocates and attorneys to assist and advocate for Oneida enrolled Tribal Members that are engaged in any case with the Oneida Judiciary." On 10/8/14, the OBC deferred the verified petition to the LRO for a legislative analysis.

6) Due date: Update due at 11/12 OBC; Analysis due at 11/26 OBC

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

SEP 8 2014

**ONEIDA TRIBE OF
 INDIANS OF WISCONSIN**

FOR ONEIDA ENROLLED

PETITION FORM

NAME OF PETITIONER: GINA D. POWLESS, Tribal enrollment #

PURPOSE: TO CREATE A SUPPORT SYSTEM OF PARALEGALS, ADVOCATES AND ATTORNEYS TO ASSIST AND ADVOCATE FOR ONEIDA ENROLLED TRIBAL MEMBERS THAT ARE ENGAGED IN ANY CASE WITH THE ONEIDA JUDICIARY.

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY

Printed Name	Address	D.O.B	Enrollment #	Signature
1 Georgia Football				Georgia Football
2 Rhys Pagan				Rhys Pagan
3 VINCENT POWLESS				Vincent Powless
4 Geronimo Powless				Geronimo Powless
5 Dorothy Niphan				Dorothy Niphan
6 Gabe Powless				Gabe Powless
7 Mark A. Powless Sr.				Mark A. Powless
8 Billie Jo Corneil				Billie Jo Corneil
9				
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20				

Verified by 

Date 9-9-14

RECEIVED

SEP 09 2014

Oneida Enrollment Dept.

RECEIVED BY BC
ADMINISTRATIVE OFFICE

SEP 8 2014

ONEIDA TRIBE OF
INDIANS OF WISCONSIN

PETITION FORM

NAME OF PETITIONER: GINA D. POWLESS, Tribal enrollment #


PURPOSE: TO CREATE A SUPPORT SYSTEM OF PARALEGALS, ADVOCATES AND ATTORNEYS TO ASSIST AND ADVOCATE FOR ONEIDA ENROLLED TRIBAL MEMBERS THAT ARE ENGAGED IN ANY CASE WITH THE ONEIDA JUDICIARY.

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY

Printed Name	Address	D.O.B	Enrollment #	Signature
1 ELAND WIGB NAWHA				Eland Wigg-Nawha
2 Eli Winham				Eli Winham
3 Herb Powless				Herb Powless
4 Marques Dauterth				Marques Dauterth
5 Kathleen Edon				Kathleen Edon
6 J. Montreamp				J. Montreamp
7 Wes Martin				Wes Martin
8 Christine A. Brumette				Christine A. Brumette
9 Tina L. Buckart				Tina L. Buckart
10 Monica Garrett				Monica Garrett
11 Truman Powless				Truman Powless
12 LINDA NEWTON				Linda Newton
13 Wayne Dees				Wayne Dees
14 Fred Lynch				Fred Lynch
15 Janet M. Heg				Janet M. Heg
16 FRED B. CORWEN				Fred B. Corwen
17 PAULETTE LES-HI				Paulette Les-Hi
18 TIM NINHAM				Tim Ninham
19 Eric Baucher				Eric Baucher
20 DONA COTTR				Dona Cottr

1826

NO MATCH

Verified by 
Date 9-9-14

RECEIVED

SEP 09 2014

Oneida Enrollment Dept.

RECEIVED BY BC
ADMINISTRATIVE OFFICE

SEP 8 2014

ONEIDA TRIBE OF
INDIANS OF WISCONSIN

PETITION FORM

NAME OF PETITIONER: GINA D. POWLESS, Tribal enrollment #

PURPOSE: TO CREATE A SUPPORT SYSTEM OF PARALEGALS, ADVOCATES AND ATTORNEYS TO ASSIST AND ADVOCATE FOR ONEIDA ENROLLED TRIBAL MEMBERS THAT ARE ENGAGED IN ANY CASE WITH THE ONEIDA JUDICIARY.

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY

Printed Name	Address	D.O.B	Enrollment #	Signature
1. Dorothy A Skeneanda				<i>[Signature]</i>
2. Linda S. Dallas				<i>[Signature]</i>
3. Lois Strong				<i>[Signature]</i>
4. Patricia Cassile				<i>[Signature]</i>
5. GINA E POWLESS				<i>[Signature]</i>
6. GINA A POWLESS Sr				<i>[Signature]</i>
7. DALE POWLESS				<i>[Signature]</i>
8. JESSICA POWLESS				<i>[Signature]</i>
9. CARINA BHATTY				<i>[Signature]</i>
10. Mary Osterens				<i>[Signature]</i>
11. Christine Potatka				<i>[Signature]</i>
12. Brian A. Daytor				<i>[Signature]</i>
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Verified by *[Signature]*
Date 9/9/14

RECEIVED

SEP 09 2014

Oneida Enrollment Dept.

RECEIVED BY BC
ADMINISTRATIVE OFFICE

SEP 8 2014

ONEIDA TRIBE OF
INDIANS OF WISCONSIN

DATE FOR ONEIDA ENROLLED

PETITION FORM


NAME OF PETITIONER: GINA D. POWLESS, Tribal enrollment #

PURPOSE: TO CREATE A SUPPORT SYSTEM OF PARALEGALS, ADVOCATES AND ATTORNEYS TO ASSIST AND ADVOCATE FOR ONEIDA ENROLLED TRIBAL MEMBERS THAT ARE ENGAGED IN ANY CASE WITH THE ONEIDA JUDICIARY.

DATE SUBMITTED TO THE ONEIDA TRIBAL SECRETARY

Printed Name	Address	D.O.B	Enrollment #	Signature
1 JOEY POWLESS				JOEY POWLESS
2 KRISTAL DENN				KRISTAL DENN
3 YANNA JOURNEN				YANNA JOURNEN
4 BRIDGET MENDALLA-CORNELIUS				BRIDGET M. CORNELIUS
5 RICK CORNELIUS				RICK CORNELIUS
6 ARIEKO DANFORTH				ARIEKO DANFORTH
7 KRISTOPHER DANFORTH				KRISTOPHER DANFORTH
8 GEORGINA DENN				GEORGINA DENN
9 GINA D. POWLESS				GINA D. POWLESS
10 HARRY POWLESS				HARRY POWLESS
11 JAMES VAUGHAN				JAMES VAUGHAN
12 CHELSEA POWLESS				CHELSEA POWLESS
13 SHELLEY DILLON				SHELLEY DILLON
14 MICHAEL POWLESS				MICHAEL POWLESS
15 MITCHELL SHANAHAN				MITCHELL SHANAHAN
16 DAVID POWLESS				DAVID POWLESS
17 CHERYL POWLESS				CHERYL POWLESS
18				
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6028

Verified by 
Date 9-9-14

RECEIVED

SEP 09 2014

Oneida Enrollment Dept.



Legislative Operating Committee AGENDA REFERRAL FORM



1) Today's Date: 10 / 10 / 14 Date of Referral Action: 10 / 08 / 14

2) Entity that referred this item to LOC: OBC

3) Individuals or Entities to contact regarding this item: _____

4) Item referred: Furlough Policy

5) Background information, including applicable actions and dates: On 10/8/14, the OBC deferred the Furlough Policy to the LOC and requested the LOC pursue permanent adoption of the policy. Attached is the Policy that was adopted on an emergency basis.

6) Due date: N/A

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

Furlough Policy

Article I. Purpose and Policy
 Article II. Adoption, Amendment, or Repeal
 Article III. Definitions
 Article IV. Covered Employees

Article V. General Information
 Article VI. Supervisor and/or Designee Responsibility
 Article VII. Appeal

Article I. Purpose and Policy

1-1. The purpose of this Policy is to recognize the need to manage the fiscal responsibility of the annual budget of the Oneida Tribe of Indians of Wisconsin when it experiences a reduction in Federal funding or other loss of revenue that causes a significant operating budget deficit by implementing an employee furlough plan.

1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin, that in order to utilize a furlough, they must identify a lack of funding, lack of work, lapse in appropriations or any other budget situation warranting an unpaid leave of absence.

Article II. Adoption, Amendment, or Repeal

2-1. This Policy was adopted on an emergency basis by the Oneida Business Committee by resolution BC-10-15-13-A and extended for an additional six (6) months by BC-04-09-14-D.

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

2-3. Should a provision of this Policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy which are considered to have legal force without the invalid portions.

2-4. In the event of a conflict between a provision of this Policy and a provision of another policy, the provisions of this Policy shall control.

2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

Article III. Definitions

3-1. This Article shall govern the definitions of words or phrases as used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Employee" shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe 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, an individual employed by any program or enterprise of the Tribe, politically appointed employees and temporary employees.

(b) "Furlough" shall mean a temporary, unpaid leave of absence from work for a specified period of time for which the employee shall not be able to use accrued personal or vacation time.

(c) "General Manager Level Position" shall mean the highest level in the chain of command under the Oneida Business Committee.

(d) "Supervisor" shall mean a person who directly oversees the work and performance of an employee on a daily basis.

Article IV. Covered Employees

4-1. This policy shall apply to all employees of the Oneida Tribe of Indians of Wisconsin.

4-2. Furloughs shall utilize Indian preference to determine which employee is placed on furlough where such option is available.

Article V. General Information

5-1. If the Oneida Business Committee has identified the necessity for a furlough; a directive by resolution shall be given to the appropriate General Manager Level positions.

5-2. Employees placed on furlough shall not be separated from the Oneida Tribe. Employees are strictly prohibited from performing any work on a furlough day. This includes responding to work-related e-mail and voice mail.

5-3. Furlough days shall be taken on days that an employee is normally scheduled to work. However, employees may be furloughed for periods of time that include holidays.

5-4. No overtime and/or additional duty pay shall be approved as a result of a furlough.

5-5. All authorized miscellaneous deductions shall no longer continue to be paid and shall be the responsibility of the employee. These include, but are not limited to: charitable contributions, payroll deduction for Tribal purchases, and child support.

5-6. Eligibility for unemployment insurance benefits is determined by the State of Wisconsin. Under the State of Wisconsin Unemployment Compensation Act, partial unemployment benefits are sometimes payable to employees during periods of time when their hours are reduced. The employee shall be responsible for contacting the State of Wisconsin Unemployment Department to determine if they qualify. However, employees using one day of furlough leave in a pay period will generally not qualify for unemployment. The Tribe shall not deny a request for unemployment compensation for leaves of absence due to furlough.

5-7. Employees placed on furlough shall not be eligible for back pay awards upon return to regular duty.

5-8. Furlough days shall be scheduled in a way that allows the departments to continue to provide a basic level of service.

Article VI. Supervisor and/or Designee Responsibility

6-1. Upon notification from the appropriate General Manager Level position that furloughs are necessary, the supervisor shall:

- (a) Identify those employees whose employment status is required to be furloughed subject to the operational needs of the department.
- (b) Notify those identified employees that his or her employment status shall be furloughed on a temporary basis.
- (c) Notify the Human Resources Department to inform that the specific employee status is appropriately changed to “furlough”, and
- (d) Notify the furloughed employee of his or her return to work date as determined by the Oneida Business Committee.
- (e) Notify the Human Resources Department to ensure their employment status is returned to its original status.

Article VII. Appeal

7-1. An employee placed on furlough does not have the right to appeal such a decision under any Tribal law, policy, or the personnel grievance process.

End.

Emergency Adoption – BC-10-15-13-A
Emergency Extension – BC-04-09-14-D

October 2014

October 2014							November 2014						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	8	9	10	11	9	10	11	12	13	14	15
19	20	21	15	16	17	18	16	17	18	19	20	21	22
26	27	28	22	23	24	25	23	24	25	26	27	28	29
			29	30	31		30						

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Sep 28 - Oct 4	Sep 28	29	30	Oct 1 9:00am 2:00pm LOC Regular Meeting (BCCR)	2	3	4
Oct 5 - 11	5	6	7	8 BC Meeting (BCCR)	9	10	11
Oct 12 - 18	12	13	14	15 9:00am 2:00pm LOC Regular Meeting (BCCR)	16	17	18
Oct 19 - 25	19	20	21	22 BC Meeting (BCCR)	23	24	25
Oct 26 - Nov 1	26	27	28	29	30	31	Nov 1

November 2014

November 2014						
Su	Mo	Tu	We	Th	Fr	Sa
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30						

December 2014						
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14	15	16	17	18	19	20
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28	29	30	31			

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Oct 26	27	28	29	30	31	Nov 1
10/26 - 31							
	2	3	4	5	6	7	8
11/2 - 7				9:00am 2:00pm LOC Regular Meeting (BCCR)			
	9	10	11	12	13	14	15
11/9 - 14			Veterans Day	BC Meeting (BCCR)			
	16	17	18	19	20	21	22
11/16 - 21				9:00am 2:00pm LOC Regular Meeting (BCCR)			
	23	24	25	26	27	28	29
11/23 - 28				BC Meeting (BCCR)	Thanksgiving	Indian Day	
	30	Dec 1	2	3	4	5	6
11/30 - 12/5							