

# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
December 16, 2015 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
  1. December 2, 2015 LOC Meeting Minutes
- III. Current Business**
  1. Petition: Food Pantry
  2. Cemetery Law Amendments
  3. Probate Law
  4. Research Protection Act
  5. Election Board Bylaws Amendments
  6. Landlord-Tenant Law
  7. Mortgage Law
  8. Real Property Law Amendments
  9. Garnishment Amendments
  10. Land Commission Bylaws Amendments
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
  1. Administrative Rulemaking Law and Comprehensive Policy Governing Boards, Committees and Commission Amendments Public Meeting E-Poll
  2. LOC Quarterly Report
- VII. Executive Session**
- VIII. Recess/Adjourn**

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Jennifer Webster, Councilmember

## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
December 2, 2015 9:00 a.m.

**PRESENT:** Brandon Stevens, Jennifer Webster, Fawn Billie

**EXCUSED:** Tehassi Hill, David P. Jordan

**OTHERS PRESENT:** Taniquelle Thurner, Candice Skenandore, Krystal John, Douglass McIntyre, Rae Skenandore, Danelle Wilson, Bradley Graham, Bill Graham, Layatalati Hill, Gina Buenrostro, RC Metoxen

### I. Call To Order and Approval of the Agenda

Brandon Stevens called the December 2, 2015 Legislative Operating Committee meeting to order at 9:03 a.m.

Motion by Jennifer Webster to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

### II. Minutes to be approved

#### 1. November 18, 2015 LOC Meeting Minutes

Motion by Jennifer Webster to approve the November 18, 2015 LOC meeting minutes; seconded by Fawn Billie.

### III. Current Business

#### 1. Administrative Court (1:02-2:07)

Motion by Jennifer Webster to defer the Administrative Court to the Legislative Reference Office for a legislative analysis and to the Finance Office for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.

#### 2. Employment Law (2:15-26:44)

Motion by Jennifer Webster to support exploring and due diligence, for looking at separating the Human Resource Department functions for Gaming; seconded by Fawn Billie. Motion carried unanimously.

#### 3. Garnishment Amendments (26:45-44:03)

Motion by Jennifer Webster to accept the legislative analysis of the Garnishment Amendments with the directed change to the law, and prepare for a public meeting date of January 21, 2016; seconded by Fawn Billie. Motion carried with Fawn Billie abstaining.

*Note: the directed change requires Tribal departments to pay filing fees instead of being exempt.*

**4. Audit Committee Bylaws Amendments (44:05-45:02)**

Motion by Jennifer Webster to forward the Audit Committee Bylaws Amendments to the Legislative Reference Office for a legislative analysis; seconded by Fawn Billie. Motion carried unanimously.

**5. Administrative Procedures Act Amendments (45:03-45:54)**

Motion by Fawn Billie to approve the public meeting packet and forward the Administrative Procedures Act Amendments to a public meeting to be held on January 7, 2016; seconded by Jennifer Webster. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Updates**

**1. Vendor Licensing Law (46:02-47:06)**

Motion by Jennifer Webster to identify Jennifer Webster as the sponsor for the Vendor Licensing Law; seconded by Fawn Billie. Motion carried unanimously.

**VII. Executive Session**

**VIII. Recess/Adjourn**

Motion by Fawn Billie to adjourn the December 2, 2015 Legislative Operating Committee meeting at 9:50 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



# Legislative Operating Committee

## December 16, 2015

### Petition: Food Pantry

**Submission Date:** 10/28/2015

**LOC Sponsor:** Brandon Stevens

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**Summary:** *This Petition concerns the establishment and operation of an emergency food pantry containing specific requirements. Additionally, the Petition provides for specific supplies and funding from other Tribal entities.*

**10/28/15 OBC:** Motion by David Jordan to accept the verified petition submitted by Nancy Barton: To open an Emergency Food Pantry; to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed; to direct the Law, Finance, and Legislative Reference Offices to submit the analyses to the Tribal Secretary's Office within sixty (60) days, and that a progress report be submitted in forty-five (45) days; and to direct the Direct Report Offices to submit the appropriate administrative analyses to the Tribal Secretary's Office within thirty (30) days, seconded by Fawn Billie. Motion carried unanimously.

**11/4/15 LOC:** Motion by Jennifer Webster to add the Petition: Food Pantry to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

#### Next Steps:

- Accept the update of the progress of the Statement of Effect and forward to the Oneida Business Committee.



# Legislative Operating Committee AGENDA REFERRAL FORM



1) Today's Date: 10 / 30 / 2015 Date of Referral Action: 10 / 28 / 2015

2) Entity that referred this item to LOC: Oneida Business Committee

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

4) Item referred: Petitioner Nancy Barton: To open an Emergency Food Pantry

5) Background information, including applicable actions and dates: The attached petition was submitted to the Tribal Secretary's Office on to October 7, 2015. At an Oneida Business Committee meeting on October 28, 2015, the verified petition was accepted and referred to the Legislative Reference Office for a legislative analysis due in sixty (60) days. A progress report is due in forty-five (45) days.

6) Due date: Update due 12/23/15, analysis due 1/13/15

*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

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

Krystal L. John, Staff Attorney  
 Douglass A. McIntyre, Staff Attorney  
 Taniquelle J. Thurner, Legislative Analyst  
 Candice E. Skenandore, Legislative Analyst



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### Update Memorandum

#### *Statement of Effect for Petition: Food Pantry*

#### Summary

On October 7, 2015, a Petition was submitted to the Tribal Secretary's Office and verified by the Enrollment Department. At an Oneida Business Committee meeting on October 28, 2015, the verified petition was accepted and referred to the Legislative Reference Office for a Statement of Effect with a due date of January 13, 2016. This memorandum is to serve as the update required at the December 23, 2015 meeting of the Oneida Business Committee.

*Submitted by Douglass A. McIntyre, Staff Attorney, Legislative Reference Office*

The Petition is comprised of a full page containing specific requirements for the establishment, funding, supplying and operation of an emergency food pantry. The Petition can be broken down into three separate sections:

#### 1. Establishing the Food Pantry

- The location of the food pantry be at the now vacant former Tower Foods.
- The food pantry be opened on October 1, 2016.
- That three (3) positions be filled: a manager and two (2) warehouse workers.
  - These jobs are Enrolled Oneida members only.
  - The additional workforce be made of volunteers.

#### 2. Funding and Supplying the Food Pantry

- The emergency food pantry be funded by:
  - transferring \$50,000 from Center for Self Sufficiency (Festival Food Cards) to the food pantry.
  - suspending all food purchases at the Oneida Radisson for meetings, conferences, summits.
  - transferring any and all other funding sources, including grants to the food pantry.
  - a reinstatement of the 2008 budget for the food pantry.
- The food pantry would be supplied by:
  - the Oneida Nation Farm providing buffalo, grass-fed beef, eggs, chicken, Tsyunhekwa, Cannery white corn and other products.
  - the Apple Orchard providing apples.
- Additional supplies and equipment be supplied by the Tribe:
  - A van
  - A forklift

- Two (2) dollies
- Freezer
- Refrigerators
- Computer software
- Office supplies

### **3. Operating the Food Pantry:**

- Hours of pickup would be from 9:00 a.m. to 12:00 p.m. Monday through Friday.
- The food pantry would have the following restrictions:
  - Will only serve households where an enrolled Tribal member resides.
  - Will only serve those with income guidelines consistent with state and federal eligibility, but with the flexibility to review a case-by-case basis.
  - Circumstances of eligibility include, but are not limited to, interruption of family income, job loss, change in family composition, homelessness.
- Reporting policy be implemented:
  - The manager would be required to report quarterly to the Oneida Business Committee.
  - The manager would be required to submit a report form to the General Tribal Council at the annual and semiannual meetings.

Given the number of specific requirements in the Petition, the Legislative Reference Office is still in the process of determining what effect, if any, each requirement would have on current law. A Statement of Effect will be provided at the January 6, 2016 meeting of the Oneida Business Committee.



# Legislative Operating Committee

## December 16, 2015

### Cemetery Law Amendments

**Submission Date:** 8/5/15

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** David P. Jordan

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

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

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

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

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

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

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

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

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



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

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

**Next Steps:**

- Accept the memorandums;
- Provide a recommendation to the OBC on the issue of mandating encasements; and
- Forward the reporting structure memorandum to the Oneida Business Committee.

## Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Krystal L. John, Staff Attorney  
Douglass A. McIntyre, Staff Attorney  
Taniquele J. Thurner, Legislative Analyst  
Candice E. Skenandore, Legislative Analyst



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### Memorandum

**TO:** Legislative Operating Committee  
**FROM:** Douglass McIntyre, Staff Attorney  
**DATE:** December 16, 2015  
**RE:** Cemetery Law Amendments – Encasement

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At a meeting of the Oneida Business Committee (OBC) on November 10, 2015, the OBC accepted the Business Committee Officers' Cemetery Action Plan. This plan directed the Legislative Operating Committee (LOC) to:

- Review the Cemetery Law as it relates to the requirement of having encasements as part of burial mandate(s) and provide a recommendation; and
- Request a position analysis be developed for groundkeeper and/or cemetery manager, including a reporting structure in the law.

### Encasements

Under the current Cemetery Law, Section 75.6-3, recommends the use of “outer burial containers” otherwise known as encasements. However, the use of encasements for traditional burials or burials of cremated remains is not mandated. Encasements are essentially a containers that encloses the casket before burial. There are several types of encasements available such as burial liners, lawn crypts and burial vaults that can be composed of a variety of materials (concrete, steel, stainless steel, copper, bronze, etc.). While most states do not have laws mandating the use of encasements, it appears to be common practice for a cemetery to require some form of encasement. Of the half-dozen local cemeteries contacted, all require an encasement for a traditional burial and most require encasement for burial of cremation remains as well.

### Advantages of Mandating Encasements

Mandating encasements could help prevent unneeded issues with the cemetery from occurring. Depending on the climate and the type of material used, a casket can decay in just a matter of a few months. As the casket decays, this can cause the ground on the surface to sink in. While an encasement will not prevent a casket from decaying, it can protect the ground around a casket from caving in when decay occurs. Encasements can also protect a casket from collapsing due to the weight of the earth and/or the use of heavy equipment often needed for cemetery maintenance.

While many sellers claim that encasements are sealed, the literature appears to disagree with this since a completely sealed encasement would lead to a buildup of gases and a rupture. At the very least, encasements should reduce outside elements from getting into the casket. Given the past issue of flooding, this might help give peace of mind to families with love ones buried with an encasement.

### **Disadvantages of Mandating Encasements**

The largest disadvantage to encasements is the cost. There is a varying cost range depending on type and materials of an encasement:

Burial liner -- between \$700 and \$1,000,  
 Lawn crypt -- between \$2,000 to \$10,000  
 Burial vault -- between \$900 to \$13,000.

Currently, the only expense charged by the Tribe is \$100 for a plot and \$50 for a marking fee. Mandating encasements would be an added expense to the family in addition to the other expenses associated with a funeral (funeral service, casket, catering, grave digging etc.)

Additionally, there may be a traditional concern in that encasements take us further away from the traditional burial. Lastly, depending on the material the encasement is made of, there could also be a potential issue of contamination with the nearby waterways. However, this could be remedied by prohibiting specific kinds of encasement materials from being used.

### **Requested Action**

Provide a recommendation to the OBC on the issue of encasements and approve forwarding the following language in either A or B to the OBC in memorandum format:

#### Memorandum A. For a Mandate

At a meeting of the Oneida Business Committee (OBC) on November 10, 2015, the OBC accepted Business Committee Officers' Cemetery Action Plan. This plan directed the Legislative Operating Committee (LOC) "to review the Cemetery Law as it relates to the requirement of having encasements as part of burial mandate(s) and provide a recommendation."

Pursuant to 75.6-3 of the Cemetery Law, the use of an encasement is recommended but not mandated. At a meeting of the LOC on December 16, 2015, the LOC discussed the topic weighing the advantages and disadvantage to a mandate. Ultimately, the LOC decided that the encasements should be mandated. In support of the decision, the LOC points to the following:

- A mandate for encasements could prevent unnecessary maintenance;
- Mandating encasements might help put families at ease concerning the recent issues the cemetery has had.

As such, encasements will be mandated in the amendments to the Cemetery Law.

OR

Memorandum B. Against a Mandate

At a meeting of the Oneida Business Committee (OBC) on November 10, 2015, the OBC accepted Business Committee Officers' Cemetery Action Plan. This plan directed the Legislative Operating Committee (LOC) "to review the Cemetery Law as it relates to the requirement of having encasements as part of burial mandate(s) and provide a recommendation."

Pursuant to 75.6-3 of the Cemetery Law, the use of an encasement is recommended but not mandated. At a meeting of the LOC on December 16, 2015, the LOC discussed the topic weighing the advantages and disadvantage to a mandate. Ultimately, the LOC decided that a mandate of encasements should not be included in the Law. In support of the decision, the LOC points to the following:

- The cost of a mandate would be too much for families pressed into a situation in which a loved one has passed away;

As such, the encasements will continue to be recommended but not mandate by amendments to the Law.

**Groundskeeper/Cemetery Manager Position**

Under the current Cemetery Law, Section 75.4-1(f) tasks the Enrollment Department with maintaining the Tribal cemetery. Currently, the Department has a contract with an outside company, First Choice Landscaping, to provide maintenance and upkeep of the cemetery grounds. The current Law would not prevent a groundskeeper position and/or cemetery manager position from being created.

The Cemetery Work Group met on November 30, 2015, and in part, discussed the creation of a position of a groundskeeper and/or cemetery manager. The Cemetery Work Group planned to work with the Human Resources Department on exploring the duties and creating a job description for those positions.

***Reporting Structure***

The current Cemetery Law has two reporting features: 1) the Department is tasked with reporting to the Oneida Business Committee and General Tribal Council (Section 75.4-1); and 2) Department decisions regarding the implementation and enforcement of this Law and the creation and enforcement of any cemetery rules may be appealed to the Trust/Enrollment Committee (Section 75.7-3). However, given the recent issues concerning the cemetery, the LOC may wish to recommend creating a new reporting structure that is has more comprehensive reporting structure in the Law, while allowing the language to be flexible enough to

accommodate one or both position without requiring the Law to be amended. A suggested hierarchy would be:

Maintenance Responsibility Entity
Groundskeeper/Cemetery Manager Position
Trusts Department
Trusts/Enrollment Department

Additionally, the latest draft to the Law has an updated reporting structure for complaints:

Written complaints could begin at:	Maintenance responsibility entity; Groundskeeper/cemetery manager position; or Trust Department level.
Written response from Trust Department	Trust Department would have five (5) business days from the receipt of a complaint to respond in writing including the action taken, or planned action to remedy the underlying issue.  This written response would be sent to the individual who filed the complaint (if his or her address is known), and the Trusts/Enrollment Department.
Trust/Enrollment Committee review	An individual not satisfied with the written response could then file a notification to the

### **Requested Action**

Provide a recommendation to the OBC on the reporting structure in the law.



# Legislative Operating Committee

## December 16, 2015

### Probate Law

**Submission Date:** 10/7/15

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *Is a new law that will explain the process for administering the estate of a deceased person, including resolving all claims and distributing the deceased person's property. This law is being developed because the Land Commission's hearing responsibilities are transferring the Judiciary.*

**10/7/15 LOC:** Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Accept the memorandum regarding the status of the Probate Law as FYI and defer the item back to the sponsor until a draft is ready.

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David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**TO:** Legislative Operating Committee  
**FROM:** David P. Jordan  
**DATE:** December 16, 2015  
**RE:** Probate Law

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On October 7, 2015, an agenda request form for the creation of a new law entitled Probate Law was submitted to the Legislative Operating Committee (LOC). At the October 7, 2015 meeting, the LOC added the item to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Legislative Reference Office has begun the process of drafting this law. I am asking that you defer this item back to my office for further work and I will bring back the law when it is ready.

**Requested Action**

Motion to accept the memorandum regarding the status of the Probate Law as FYI and to defer the item back to my office until a draft is ready.



# Legislative Operating Committee

## December 16, 2015

### Research Protection Act

**Submission Date:** 10/7/15

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *This is a new law that is intended to assist Oneida with consultation and research from Tribal members. The goal is to use intellectual brain power of Oneida college graduates who are willing to serve as a Tribal resource, ensuring future Tribal growth/prosperity. The Tribe has invested scholarship dollars and should expect a ROI. Alumni will be able to give back without moving back.*

**10/7/15 LOC:** Motion by David P. Jordan to defer the Research Protection Act to the next Legislative Operating Committee meeting in order for the requestor to answer questions; seconded by Jennifer Webster. Motion carried unanimously.

**10/21/15 LOC:** Motion by David P. Jordan to add the Research Protection Act to the Active Files List with Fawn Billie as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

#### Next Steps:

- Accept the memorandum regarding the status of the Research Protection Act as FYI and defer the item back to the sponsor until a draft is ready.



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David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

**Memorandum**

**TO:** Legislative Operating Committee  
**FROM:** Fawn Billie  
**DATE:** December 16, 2015  
**RE:** Research Protection Act

---

On October 7, 2015, an agenda request form for the creation of a new law entitled Research Protection Act was submitted to the Legislative Operating Committee (LOC). At the October 21, 2015 meeting, the LOC added the item to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Legislative Reference Office has met with the individual that submitted the agenda request and is continuing to work on the draft. I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

**Requested Action**

Motion to accept the memorandum regarding the status of the Research Protection Act as FYI and to defer the item back to my office until a draft is ready.



# Legislative Operating Committee

## December 16, 2015

### Election Board Bylaws Amendments

**Submission Date:** March 18, 2015

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Brandon Stevens

**Summary:** *The Election Board had requested amendments to their Bylaws per the current Election Law and previous GTC action.*

**3/18/15 LOC:** Motion by Jennifer Webster to add the Election Board Bylaws Amendments to the active files list, and to defer this item to the Legislative Reference Office for processing and to bring back when ready; seconded by Tehassi Hill. Motion carried unanimously.

Note: Brandon Stevens will be the sponsor.

**5/20/15 LOC:** Motion by Fawn Billie to accept the Election Board Bylaws Amendments memorandum; seconded by David P. Jordan. Motion carried unanimously.

**6/17/15 LOC:** Motion by David P. Jordan to defer the Election Board Bylaws Amendments to the sponsor to bring back a report in two weeks; seconded by Fawn Billie. Motion carried unanimously.

**7/1/15 LOC:** Motion by David P. Jordan to defer the Election Board Bylaws Amendments to the sponsor to bring back a report in two weeks; seconded by Tehassi Hill. Motion carried unanimously.

**8/5/15 LOC:** Motion by Fawn Billie to defer the Election Board Bylaw Amendments to the next Legislative Operating Committee meeting to allow the sponsor to work with the Board to resolve the remaining issues; seconded by David P. Jordan. Motion carried unanimously.

**8/19/15 LOC:** Motion by David P. Jordan to accept the sponsor's report and defer the Election Board Bylaws Amendments back to the sponsor until after the new Election Board officers are sworn in; seconded by Jennifer Webster. Motion carried unanimously.

**10/5/15:** Work meeting held. Attendees include: Brandon Stevens, Jennifer Webster, Tehassi Hill, David P. Jordan, Raquel Hill, Melinda K. Danforth, Krystal John and Tani Thurner.

**Next Steps:**

- Review the Election Board By-laws Amendments and defer to the LRO for an updated legislative analysis.

## ONEIDA ELECTION BOARD BY-LAWS

## Article I. Authority

1-1. ~~1-1.~~ **Name.** The name of this entity ~~will be~~ is the Oneida Election Board ~~and may be referred to as~~ (hereinafter "the Board.").

A. Purpose. The Board is responsible for conducting the Tribe's elections and the voting process at General Tribal Council meetings. In accordance with the Election Law, the Board shall manage all registration and election procedures, issue final reports containing election results, and perform various other duties as identified in the Election Law, including but not limited to the following:

1. Assisting the handicapped through the voting process;
2. Managing the any Tribal personnel working under the Board's guidance during voting periods;
3. Issuing fines, in amounts set by the Oneida Business Committee, for violations of the Oneida Election Law, which may include, but are not limited to, the rules imposed related to campaign contributions and campaign sign restrictions;
4. Verifying the authenticity of rejected ballots; and
5. Conducting hearings for applicants' appeals of the Board's determination of his/her ineligibility for an elected position.

1-2. **Authority.** This entity is ~~re-established~~ established by the Oneida Election Law and further recognized by the Oneida Business Committee by adoption of these by-laws on December 30, 1998 and ~~amended~~ the amendments thereto on May 21, 2003 ~~and~~ February 25, 2009, and \_\_\_\_\_.

1-3. **Office.** The official mailing address of this entity ~~shall be~~ is:

Oneida Election Board  
P.O. Box 413  
Oneida, Wisconsin 54155

~~The physical meeting place shall be determined at the first meeting of this entity and may change from time to time as determined by the entity, but shall be within the reservation boundaries unless noticed to the membership prior to designating the meeting location.~~

1-4. **Membership.** ~~The Board will:~~

~~a. Consist of 12 (twelve) voting~~ A. *Members.* The Board consists of nine (9) members.

~~b. Be selected,~~ elect in accordance with the Election Law, Section 4-2, provided that the following processes shall be used:

~~i. More nominations.~~ Members shall serve a term of three (3) years. No member may serve for more than vacancies. At the General Tribal Council Meeting, members shall be nominated at the meeting. The nominated person shall either accept or decline. Upon closure of the acceptance of nominations for members, the Tribal Secretary and Election Board Chairperson, or designee, shall number the candidates consecutively for members. The General Tribal Council shall then utilize ballots prepared for this purpose and shall cast their ballots choosing the appropriate number of names from each set. two (2) consecutive terms.

~~ii. Less nominations than vacancies.~~ In the event that less candidates are nominated than there are vacant positions, no voting is needed.



1. Alternates. In accordance with the Election Law, the Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election days and pre-election activities. Alternates shall serve on the Board during elections and until election results have been certified. In addition, the Board may utilize alternates for General Tribal Council meetings.

B. Elected Entity. The Board is an elected entity.

C. Board Vacancies. Board vacancies must be filled ~~iii. Ties. In the event of a tie, the tie shall be broken by the flip of a coin.~~

e. Fill vacancies in accordance with the Election Law, ~~Section 4-2a.~~ In the event of a Board vacancy, the Board shall submit a request to the Oneida Business Committee requesting the vacancy to be posted.

1. d. Remove members from the Board due to unexcused absence's in accordance with the Removal Law.

e. Accept resignation's when submitted in writing and presented to Removal. Members may be removed from the Board in accordance with the Election Law, Section 4-6 Removal Law. A member who is removed from the Board shall be ineligible to serve on the Board for three years from the date of his or her removal.

2. Resignation. A member may resign at any time by delivering written notice to the Committee or upon the acceptance by motion of the Committee of a verbal resignation. A resignation is effective upon delivery of notice unless a later effective date is specified.

D. Qualifications. In order to be eligible to serve on the Board, members must:

1. be an enrolled Tribal Member;
2. be a qualified voter, as defined in the Tribe's Constitution; and
3. reside within Brown or Outagamie county.

i. Exception: Alternates serving at a Milwaukee polling site are exempt from the residency requirement.

### 1-5. Stipends and Compensation.

A. Stipends. Board members may receive a stipend of one hundred dollars (\$100.00) for each Board meeting held in compliance with the Comprehensive Policy Governing Boards, Committees and Commissions, each hearing, each General Tribal Council meeting when acting in the capacity as a General Tribal Council official for counting General Tribal Council votes.

B. Election Compensation. Board members may be paid a maximum rate of ten dollars (\$10.00) per hour while working elections on election days.

1-6. Trainings. The Board shall provide and all new Board members shall attend a orientation during which the new members must be provided with the Election Law, the Board's by-laws, the Board's standard operating procedures and other relevant information.

1-7. Conflict of Interest. ~~1-5. Elections.~~ The Board is responsible for holding elections of the Oneida Tribe and conducting secret ballots of General Tribal Council Meetings.



In accordance with the Election Law, Code of Ethics, Conflict of Interest Policy and Comprehensive Policy Governing Boards, Committees and Commissions: a Board member shall recuse himself/herself from participating as a Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election, or where there is otherwise a conflict of interest. Written notification of recusal must be provided to the Board as soon as possible after the Board member becomes aware of such conflict.

## Article II. Officers

~~2-1.- Officers. This entity shall have~~The Board has three (3) officers—: Chairperson, Vice Chairperson, and Secretary. The Board's officers serve one (1) year terms.

~~2-2.- Chair duties. Responsible for calling meetings and notifying members with the assistance of the Secretary. The Chairperson shall~~Duties. The Chairperson or designee shall call and preside over all regular and special meetings, shall oversee the conduct of the election, and shall elections, post and report the results of all elections, select the hearing body for applicants appealing an ineligibility determination, dismiss alternates and Enrollments personnel when their election day duties are complete, and notify the Enrollments Department of elections at least twenty (20) days before each election to allow the Enrollment Department to satisfy the mailing notice to Tribal members by the Oneida Election Law.

~~2-3.- Vice Chair duties.~~Chairperson Duties. The Vice Chairperson shall ~~preside at all meetings in the absence of the Chairperson. The Vice Chairperson shall work with the Chairperson in all matters that concern the Board, and shall preside at all meetings in the absence of the Chairperson.~~

~~2-4.2-4.- Secretary duties~~Duties. The Secretary shall keep ~~accurate minutes~~a record of ~~all the~~ meetings, both regular and special meetings. ~~Assure that minutes are reported in the proper format. Read and answer all mail abiding by/~~make them available to the ~~decisions of the Tribal Secretary, other~~ Board. members and the public as required in the Open Records and Open Meetings Law.

~~2-5.- How chosen and length of term.~~Officers are Chosen. The Board shall elect its officers ~~shall serve terms of three (3) years and shall be elected by a majority vote at the first meeting of the Election Board following their selection by the GTC.~~elections. In the event of a vacancy, the Board shall elect a successor ~~shall be voted in by the voting members for the duration~~remainder of the unexpired term.

~~by 2-6. Members. Members shall serve a term of three (3) years and shall be selected by the GTC. Members of the Board shall have voting powers. No Member shall serve for more than two consecutive terms. In the event of a vacancy of a Member, a request shall be submitted to the Oneida Business Committee requesting the vacancy be posted.~~

a. Upon declaration of candidacy for elected office, members shall take a leave of absence which shall last until the Final Report is approved by the Board.

~~2-7. Standing and Special Committees. Standing and special committees shall be created when necessary.~~

~~2-majority vote at the next Board~~8.- Compensation. The Board shall be compensated as defined by the Comprehensive Policy Governing Boards, Committees, and Commissions for all meetings, including



General Tribal Council meetings, at the rate of \$50.00 per meeting and paid at an hourly rate of \$10.00 per hour for all Elections. following the vacancy.

~~2-6.2.9.~~ **Personnel.** The Board may not hire personnel.

~~Conflict of Interest.~~ Any board member who may be related to<sup>1</sup> a candidate on the ballot for the current election shall recuse themselves from the actual election and any recounts relative to that election.

### Article III. Meetings

~~3-1. Regular meetings.~~ The regular meeting of the Board shall be held as called for by the Chairperson. Notice of meeting location, agenda, and materials shall be forwarded by the Chairperson with the assistance of the Secretary. Meetings shall be run in accordance with Roberts Rule's of Order.

~~a. Members may contact another member in any fashion to identify that they wish to be excused prior to the meeting. After a meeting, the Board may identify that a member may be excused from the prior meeting by majority vote.~~

**3-1. Regular Meetings.** The Board shall hold regular meetings on the third (3rd) Tuesday of each month at Ridgeview Plaza Suite #4 beginning at 5:00 p.m. The Chairperson, with the assistance of the Vice Chairperson and/or Secretary, shall provide public notice of regular meetings by posting the dates, time and location for all regular meetings once annually in the Tribe's newspaper and by submitting the same to the Intergovernmental Affairs and Communications Department to be included on the community calendar on the Tribe's website.

**3-2. Emergency Meetings.** Emergency meetings may be called by the Chairperson with at least twenty-four (24) hours of notice. The Chairperson, with the assistance of the Vice Chairperson and/or Secretary, shall provide public notice of emergency meetings by submitting the date, time and location of the emergency meeting to the Intergovernmental Affairs and Communications Department to be included on the community calendar on the Tribe's website no later than twenty-four (24) hours prior to the time of the emergency meeting. Further, the Entity shall provide the Secretary's office with notice of the meeting and the basis of the emergency.

A. Just Cause. In order to justify holding an emergency meeting, the Board must provide the reason for the emergency meeting and why the matter cannot wait for a regularly scheduled meeting. The emergency meeting must be necessary to maintain order and/or protect public health and safety.

**3-3. Special Meetings.** Special meetings may be called by the Chairperson with at least twenty-four (24) hours of notice. The Chairperson, with the assistance of the Vice Chairperson and/or Secretary, shall provide public notice of special meetings by submitting the date, time and location of the special meeting to the Intergovernmental Affairs and Communications Department to be included on the community calendar on the Tribe's website no later than twenty-four (24) hours prior to the time of the special meeting.

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<sup>1</sup>The term "related to" shall be defined as a Board member's Father, Father-in-law, Daughter-in-law, Mother, Mother-in-law, Son-in-law, Husband, Brother-in-law, Sister-in-law, Wife, Brother, Sister, Son, Grandparent, Grandchild or Daughter.



~~3-4.3-2. Emergency meetings.~~ Emergency or special meetings may be called by the Chairperson with at least a one-hour notice.

~~3-3. Quorum.~~ A quorum ~~shall consist of the Board consists~~ of a majority of ~~current~~ the nine (9) regular members and shall, which may include the Chairperson, the Vice Chairperson and any alternates filling in for regular members due to a recusal or Vice Chairperson a vacancy.

~~3-4.3-5. Order of Business.~~ The At all regular meetings of the Board shall follow adhere to the following order of business as set out herein:

- A. Call to ~~order~~ Order
- B. Approve/Amend Agenda
- C. Approve/Amend Minutes
- D. Tabled Business
- E. Old Business
- F. -New Business
- G. Other Concerns/Announcements
- H. Next Meeting & Adjournment

~~3-5.6. Voting.~~ Voting ~~The Board shall be conduct its meetings~~ in accordance with ~~Roberts Rule's~~ Robert's Rules of Order ~~or and shall make its decisions by a majority vote of, with each member having one (1) vote except for the voting members~~ Chairperson or other presiding officer, who may only vote to resolve a tie.

3-7. Sub-Committees and Special Committees. Sub-committees or special committees may be appointed by the Chairperson to carry out a specific objective deemed necessary by the Board. The sub-committee or special committee shall serve until its duties are completed and a report is given to the Board.

#### Article IV. Reporting

~~4-1. Format~~ Agenda Items. Agenda items ~~shall~~ must be in an identified format.

~~4-2. Minutes.~~ Minutes ~~shall~~ must be typed and in a consistent format designed to generate the most informative record of the Board's meetings ~~of the entity.~~

~~4-3. Attachments.~~ Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.

~~4-4. Reporting.~~ The Chairperson ~~will or designee shall~~ report to ~~the Tribal Secretary, their Oneida Business Committee member~~ who is ~~the~~ their designated liaison. ~~This reporting format may be intermittently as the Tribal Secretary and Board and the liaison agree to, but not less than that as required in any policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. Reports shall be made within a reasonable time after a meeting is held, or as the Tribal Secretary and the Board agree.~~ The Board shall also make quarterly reports to the Oneida Business Committee and annual and semi-annual reports to the Oneida General Tribal Council as described below:

- A. Quarterly Reporting. The Board shall make quarterly reports to the Oneida Business Committee based on the reporting schedule created by the Secretary, approved by the Oneida Business Committee and posted on the Tribe's website. At a minimum, the quarterly reports must contain the following information:



207 1. *Names.* Provide the Board's name, the Board member submitting the report,  
208 and the Oneida Business Committee liaison, and a list of the Board members and  
209 their titles, term expiration dates and contact information.

210 2. *Minutes.* Any required updates to meeting minutes previously submitted and  
211 approved by the Oneida Business Committee including any actions that have been  
212 taken and were not included in the meeting minutes previously approved by the  
213 Oneida Business Committee.

214 3. *Financial Reports.* Include if specifically requested by the Oneida Business  
215 Committee.

216 4. *Special Events and Travel During the Reporting Period.* Report any special  
217 events held during the reporting period and any travel by the Board Members  
218 Travel reports must include the following:

219 i. Which Board member(s) traveled;

220 ii. Where the Board member(s) traveled to and the travel dates;

221 iii. The purpose for the travel and a brief explanation of how the travel  
222 benefited the Tribe;

223 iv. The cost of the travel and how the cost of the travel was covered by  
224 the Board; and

225 v. Whether the cost of travel was within the Board's budget and, if not,  
226 an explanation as to why travel costs were incurred that exceeded the  
227 Board's budget.

228 5. *Anticipated Travel for the Upcoming Reporting Period.* Report any travel  
229 Board members are anticipating in the upcoming reporting period. Future travel  
230 reports must include the following:

231 i. Which Board member(s) will to travel;

232 ii. Where the Board member(s) will to travel to and the anticipated travel  
233 dates;

234 iii. The purpose for the travel and a brief explanation of how the travel  
235 will benefit the Tribe;

236 iv. The cost of the travel and how the cost of the travel will be covered by  
237 the Board; and

238 v. Whether the cost of travel is within the Board's budget and, if not, an  
239 explanation as to why the Entity anticipates incurring travel costs that  
240 exceeds its budget.

241 6. *Goals and Accomplishments.* Provide the Board's annual goals established in  
242 its annual report and how the Board has worked towards achieving such goals  
243 during the reporting period.

244 7. *Meetings.* Indicate when and how often the Entity is meeting and whether any  
245 emergency and/or special meetings have been held. If emergency and/or special  
246 meetings have been held, indicate the basis of the emergency or the reason for the  
247 special meeting and topic of the meeting.

248 8. *Follow-up.* Report on any actions taken in response to Oneida Business  
249 Committee Oneida Business Committee and/or General Tribal Council directives,  
250 if any.

251 B. *Annual Reporting.* The Board shall make annual reports to the Oneida General Tribal  
252 Council based on their activities during the previous fiscal year using the format



proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

1. *Names.* Provide the Board's name and purpose, a list of the Board's members and their titles and the contact person for the Board and their contact information including phone number, mailing address, email address, and the Board's website.
2. *Meetings.* Provide when meetings are held, where they are held, at what time they are held and whether they are open or closed.
3. *Stipends.* Provide the amount of the stipend that is paid per meeting.
4. *Budget.* Provide the Board's original budget for the previous fiscal year, what the actual budget expensed was at the close of the fiscal year, and, if not within the Board's original budget, an explanation for why the budget was exceeded.
5. *Goals and Accomplishments.* Provide up to three (3) accomplishments the Board achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Board will pursue in the new fiscal year.
6. *Logo and Images.* Provide the Board's logo that may be included in the report and any other pictures or images that the Board would like to be considered by Secretary for inclusion in the report.

*C. Semi-Annual Reporting.* The Board shall make semi-annual reports to the Oneida General Tribal Council based on their activities during the current fiscal year using the format proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

1. *Names.* Provide the Board's name and, if there have been any changes since the annual report, provide an update of the following information:
  - i. the Board's purpose;
  - ii. a list of the Board's members and their titles;
  - iii. the Board's contact person and their contact information including phone number, mailing address, email address, and the Board's website.
2. *Meetings.* If there have been any changes since the annual report, provide an update of when meetings are held, where they are held, at what time they are held and whether they are open or closed.
3. *Stipends.* If there have been any changes since the annual report, provide an update of the amount of the stipend that is paid per meeting.
4. *Goals and Accomplishments.* Provide on update on the three (3) strategic goals the Board named in its annual report.
5. *Logo and Images.* Provide any pictures or images that the Board would like to be considered by Secretary for inclusion in the report and, if the Board's logo has changed since the annual report, provide the new logo that may be included in the report.

## Article V. -Amendments

**5-1. ~~Amendments to By-Laws~~laws.** Amendments ~~shall~~may be made to these by-laws at a regular meeting of the Board provided that written notice of ~~the~~proposed amendments ~~was~~must be made at a prior regular meeting. Amendments are effective upon adoption by the Board and ~~approved~~approval by the Oneida Business Committee.

300 |  
301 | These by-laws, as amended and revised, are hereby attested to as adopted by the Board at a duly  
302 | called meeting by the ~~Chairperson's~~Chairperson's signature on ~~February 9,~~  
303 | ~~2009,~~, 20 and approved by the Oneida Business Committee at a duly called  
304 | meeting held on ~~February 25, 2009,~~, 20 signed by the Tribal Secretary of the  
305 | Oneida Business Committee.  
306 |  
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309 |  
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311 |

Oneida Election Board Chairperson

315 | \_\_\_\_\_ Oneida Tribal Secretary  
316 | \_\_\_\_\_ Oneida Tribe of Indians of Wisconsin

## ONEIDA ELECTION BOARD BY-LAWS

### Article I. Authority

**1-1. Name.** The name of this entity is the Oneida Election Board (hereinafter “the Board”).

A. *Purpose.* The Board is responsible for conducting the Tribe’s elections and the voting process at General Tribal Council meetings. In accordance with the Election Law, the Board shall manage all registration and election procedures, issue final reports containing election results, and perform various other duties as identified in the Election Law, including but not limited to the following:

1. Assisting the handicapped through the voting process;
2. Managing the any Tribal personnel working under the Board’s guidance during voting periods;
3. Issuing fines, in amounts set by the Oneida Business Committee, for violations of the Oneida Election Law, which may include, but are not limited to, the rules imposed related to campaign contributions and campaign sign restrictions;
4. Verifying the authenticity of rejected ballots; and
5. Conducting hearings for applicants’ appeals of the Board’s determination of his/her ineligibility for an elected position.

**1-2. Authority.** This entity is established by the Oneida Election Law and further recognized by the Oneida Business Committee by adoption of these by-laws on December 30, 1998 and the amendments thereto on May 21, 2003, February 25, 2009 and \_\_\_\_\_.

**1-3. Office.** The official mailing address of this entity is:

Oneida Election Board  
P.O. Box 413  
Oneida, Wisconsin 54155

### 1-4. Membership.

A. *Members.* The Board consists of nine (9) members, elected in accordance with the Election Law. Members shall serve a term of three (3) years. No member may serve for more than two (2) consecutive terms.

1. *Alternates.* In accordance with the Election Law, the Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election days and pre-election activities. Alternates shall serve on the Board during elections and until election results have been certified. In addition, the Board may utilize alternates for General Tribal Council meetings.

B. *Elected Entity.* The Board is an elected entity.

C. *Board Vacancies.* Board vacancies must be filled in accordance with the Election Law. In the event of a Board vacancy, the Board shall submit a request to the Oneida Business Committee requesting the vacancy to be posted.

1. *Removal.* Members may be removed from the Board in accordance with the Removal Law. A member who is removed from the Board shall be ineligible to serve on the Board for three years from the date of his or her removal.

2. *Resignation.* A member may resign at any time by delivering written notice to the Committee or upon the acceptance by motion of the Committee of a verbal

resignation. A resignation is effective upon delivery of notice unless a later effective date is specified.

D. *Qualifications.* In order to be eligible to serve on the Board, members must:

1. be an enrolled Tribal Member;
2. be a qualified voter, as defined in the Tribe's Constitution; and
3. reside within Brown or Outagamie county.

i. *Exception:* Alternates serving at a Milwaukee polling site are exempt from the residency requirement.

#### **1-5. Stipends and Compensation.**

A. *Stipends.* Board members may receive a stipend of one hundred dollars (\$100.00) for each Board meeting held in compliance with the Comprehensive Policy Governing Boards, Committees and Commissions, each hearing, each General Tribal Council meeting when acting in the capacity as a General Tribal Council official for counting General Tribal Council votes.

B. *Election Compensation.* Board members may be paid a maximum rate of ten dollars (\$10.00) per hour while working elections on election days.

**1-6. Trainings.** The Board shall provide and all new Board members shall attend a orientation during which the new members must be provided with the Election Law, the Board's by-laws, the Board's standard operating procedures and other relevant information.

**1-7. Conflict of Interest.** In accordance with the Election Law, Code of Ethics, Conflict of Interest Policy and Comprehensive Policy Governing Boards, Committees and Commissions; a Board member shall recuse himself/herself from participating as a Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election, or where there is otherwise a conflict of interest. Written notification of recusal must be provided to the Board as soon as possible after the Board member becomes aware of such conflict.

### **Article II. Officers**

**2-1. Officers.** The Board has three (3) officers: Chairperson, Vice Chairperson, and Secretary. The Board's officers serve one (1) year terms.

**2-2. Chairperson Duties.** The Chairperson or designee shall call and preside over all meetings, oversee the conduct of elections, post and report the results of all elections, select the hearing body for applicants appealing an ineligibility determination, dismiss alternates and Enrollments personnel when their election day duties are complete, and notify the Enrollments Department of elections at least twenty (20) days before each election to allow the Enrollment Department to satisfy the mailing notice to Tribal members by the Oneida Election Law.

**2-3. Vice Chairperson Duties.** The Vice Chairperson shall work with the Chairperson in all matters that concern the Board, and shall preside at all meetings in the absence of the Chairperson.

**2-4. Secretary Duties.** The Secretary shall keep a record of the meetings and make them available to the Tribal Secretary, other Board members and the public as required in the Open Records and Open Meetings Law.

**2-5. How Officers are Chosen.** The Board shall elect its officers by a majority vote at the first meeting of the Board following elections. In the event of a vacancy, the Board shall elect a successor for the remainder of the unexpired term by a majority vote at the next Board meeting following the vacancy.



92 **2-6. Personnel.** The Board may not hire personnel.  
93

94 **Article III. Meetings**

95 **3-1. Regular Meetings.** The Board shall hold regular meetings on the third (3rd) Tuesday of  
96 each month at Ridgeview Plaza Suite #4 beginning at 5:00 p.m. The Chairperson, with the  
97 assistance of the Vice Chairperson and/or Secretary, shall provide public notice of regular  
98 meetings by posting the dates, time and location for all regular meetings once annually in the  
99 Tribe's newspaper and by submitting the same to the Intergovernmental Affairs and  
100 Communications Department to be included on the community calendar on the Tribe's website.

101 **3-2. Emergency Meetings.** Emergency meetings may be called by the Chairperson with at  
102 least twenty-four (24) hours of notice. The Chairperson, with the assistance of the Vice  
103 Chairperson and/or Secretary, shall provide public notice of emergency meetings by submitting  
104 the date, time and location of the emergency meeting to the Intergovernmental Affairs and  
105 Communications Department to be included on the community calendar on the Tribe's website  
106 no later than twenty-four (24) hours prior to the time of the emergency meeting. Further, the  
107 Entity shall provide the Secretary's office with notice of the meeting and the basis of the  
108 emergency.

109 A. *Just Cause.* In order to justify holding an emergency meeting, the Board must  
110 provide the reason for the emergency meeting and why the matter cannot wait for a  
111 regularly scheduled meeting. The emergency meeting must be necessary to maintain  
112 order and/or protect public health and safety.

113 **3-3. Special Meetings.** Special meetings may be called by the Chairperson with at least  
114 twenty-four (24) hours of notice. The Chairperson, with the assistance of the Vice Chairperson  
115 and/or Secretary, shall provide public notice of special meetings by submitting the date, time and  
116 location of the special meeting to the Intergovernmental Affairs and Communications  
117 Department to be included on the community calendar on the Tribe's website no later than  
118 twenty-four (24) hours prior to the time of the special meeting.

119 **3-4. Quorum.** A quorum of the Board consists of a majority of the nine (9) regular members,  
120 which may include the Chairperson, the Vice Chairperson and any alternates filling in for regular  
121 members due to a recusal or a vacancy.

122 **3-5. Order of Business.** At all regular meetings, the Board shall adhere to the following order  
123 of business:

- 124 A. Call to Order
- 125 B. Approve/Amend Agenda
- 126 C. Approve/Amend Minutes
- 127 D. Tabled Business
- 128 E. Old Business
- 129 F. New Business
- 130 G. Other Concerns/Announcements
- 131 H. Next Meeting & Adjournment

132 **3-6. Voting.** The Board shall conduct its meetings in accordance with Robert's Rules of Order  
133 and shall make its decisions by majority vote, with each member having one (1) vote except for  
134 the Chairperson or other presiding officer, who may only vote to resolve a tie.

135 **3-7. Sub-Committees and Special Committees.** Sub-committees or special committees may  
136 be appointed by the Chairperson to carry out a specific objective deemed necessary by the Board.

The sub-committee or special committee shall serve until its duties are completed and a report is given to the Board.

#### **Article IV. Reporting**

**4-1. Agenda Items.** Agenda items must be in an identified format.

**4-2. Minutes.** Minutes must be typed and in a consistent format designed to generate the most informative record of the Board's meetings.

**4-3. Attachments.** Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.

**4-4. Reporting.** The Chairperson or designee shall report to their Oneida Business Committee member who is their designated liaison intermittently as the Board and the liaison agree to, but not less than as required in any policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. The Board shall also make quarterly reports to the Oneida Business Committee and annual and semi-annual reports to the Oneida General Tribal Council as described below:

A. *Quarterly Reporting.* The Board shall make quarterly reports to the Oneida Business Committee based on the reporting schedule created by the Secretary, approved by the Oneida Business Committee and posted on the Tribe's website. At a minimum, the quarterly reports must contain the following information:

1. *Names.* Provide the Board's name, the Board member submitting the report, and the Oneida Business Committee liaison, and a list of the Board members and their titles, term expiration dates and contact information.
2. *Minutes.* Any required updates to meeting minutes previously submitted and approved by the Oneida Business Committee including any actions that have been taken and were not included in the meeting minutes previously approved by the Oneida Business Committee.
3. *Financial Reports.* Include if specifically requested by the Oneida Business Committee.
4. *Special Events and Travel During the Reporting Period.* Report any special events held during the reporting period and any travel by the Board Members. Travel reports must include the following:
  - i. Which Board member(s) traveled;
  - ii. Where the Board member(s) traveled to and the travel dates;
  - iii. The purpose for the travel and a brief explanation of how the travel benefited the Tribe;
  - iv. The cost of the travel and how the cost of the travel was covered by the Board; and
  - v. Whether the cost of travel was within the Board's budget and, if not, an explanation as to why travel costs were incurred that exceeded the Board's budget.
5. *Anticipated Travel for the Upcoming Reporting Period.* Report any travel Board members are anticipating in the upcoming reporting period. Future travel reports must include the following:
  - i. Which Board member(s) will to travel;

- ii. Where the Board member(s) will to travel to and the anticipated travel dates;
- iii. The purpose for the travel and a brief explanation of how the travel will benefit the Tribe;
- iv. The cost of the travel and how the cost of the travel will be covered by the Board; and
- v. Whether the cost of travel is within the Board's budget and, if not, an explanation as to why the Entity anticipates incurring travel costs that exceeds its budget.

6. *Goals and Accomplishments.* Provide the Board's annual goals established in its annual report and how the Board has worked towards achieving such goals during the reporting period.

7. *Meetings.* Indicate when and how often the Entity is meeting and whether any emergency and/or special meetings have been held. If emergency and/or special meetings have been held, indicate the basis of the emergency or the reason for the special meeting and topic of the meeting.

8. *Follow-up.* Report on any actions taken in response to Oneida Business Committee Oneida Business Committee and/or General Tribal Council directives, if any.

B. *Annual Reporting.* The Board shall make annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year using the format proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

- 1. *Names.* Provide the Board's name and purpose, a list of the Board's members and their titles and the contact person for the Board and their contact information including phone number, mailing address, email address, and the Board's website.
- 2. *Meetings.* Provide when meetings are held, where they are held, at what time they are held and whether they are open or closed.
- 3. *Stipends.* Provide the amount of the stipend that is paid per meeting.
- 4. *Budget.* Provide the Board's original budget for the previous fiscal year, what the actual budget expensed was at the close of the fiscal year, and, if not within the Board's original budget, an explanation for why the budget was exceeded.
- 5. *Goals and Accomplishments.* Provide up to three (3) accomplishments the Board achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Board will pursue in the new fiscal year.
- 6. *Logo and Images:* Provide the Board's logo that may be included in the report and any other pictures or images that the Board would like to be considered by Secretary for inclusion in the report.

C. *Semi-Annual Reporting.* The Board shall make semi-annual reports to the Oneida General Tribal Council based on their activities during the current fiscal year using the format proscribed by the Secretary. At a minimum, the annual reports must contain the following information:

- 1. *Names.* Provide the Board's name and, if there have been any changes since the annual report, provide an update of the following information:
  - i. the Board's purpose;

- 228                   ii. a list of the Board's members and their titles;  
229                   iii. the Board's contact person and their contact information including  
230                   phone number, mailing address, email address, and the Board's website.  
231       2. *Meetings*. If there have been any changes since the annual report, provide an  
232       update of when meetings are held, where they are held, at what time they are held  
233       and whether they are open or closed.  
234       3. *Stipends*. If there have been any changes since the annual report, provide an  
235       update of the amount of the stipend that is paid per meeting.  
236       4. *Goals and Accomplishments*. Provide an update on the three (3) strategic  
237       goals the Board named in its annual report.  
238       5. *Logo and Images*. Provide any pictures or images that the Board would like to  
239       be considered by Secretary for inclusion in the report and, if the Board's logo has  
240       changed since the annual report, provide the new logo that may be included in the  
241       report.  
242

243 **Article V. Amendments**

244 **5-l. Amendments to By-laws.** Amendments may be made to these by-laws at a regular meeting  
245 of the Board provided that written notice of the proposed amendments must be made at a prior  
246 regular meeting. Amendments are effective upon adoption by the Board and approval by the  
247 Oneida Business Committee.  
248

249 These by-laws, as amended and revised, are hereby attested to as adopted by the Board at a duly  
250 called meeting by the Chairperson's signature on \_\_\_\_\_, 20\_\_ and approved by the  
251 Oneida Business Committee at a duly called meeting held on \_\_\_\_\_, 20\_\_ signed by the  
252 Tribal Secretary of the Oneida Business Committee.  
253

254 \_\_\_\_\_  
255 Oneida Election Board Chairperson  
256

\_\_\_\_\_  
Oneida Tribal Secretary  
Oneida Tribe of Indians of Wisconsin





# Legislative Operating Committee

## December 16, 2015

### Landlord-Tenant Law

**Submission Date:** October 7, 2015

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *Is a new law that will explain the roles and responsibilities of the Landlord and Tenant. This law is being developed because the Land Commission's hearing authority is being transferred to the Judiciary.*

**10/7/15 LOC:** Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Review and accept the memo providing an update on the Landlord-Tenant Law and defer the item back to the sponsor until a draft is ready.

# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** David P. Jordan, Councilmember  
**Date:** December 16, 2015  
**Re:** Landlord-Tenant Law

On September 28, 2015, a request to develop a Landlord-Tenant Law was submitted to the Legislative Operating Committee (LOC) on behalf of the Land Commission. On October 7, 2015, the LOC added the Landlord-Tenant Law to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Legislative Reference Office (LRO) has reviewed a draft of a Landlord-Tenant Law that was previously presented by a representative of the Oneida Housing Authority (OHA). In addition, a meeting was held yesterday, December 15, 2015, with representatives from the LRO, OHA and the Law Office.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

### Requested Action

Motion to accept the memorandum regarding the status of the Landlord-Tenant Law as FYI.



# Legislative Operating Committee

## December 16, 2015

### Mortgage Law

**Submission Date:** October 7, 2015

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *Is a new law that will explain how the Tribe deals with mortgages and foreclosures. This law is being developed because the Land Commission's hearing responsibilities are transferring the Judiciary.*

**10/7/15 LOC:** Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Review and accept the memo providing an update on the Mortgage Law and defer the item back to the sponsor until a draft is ready.

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## Committee Members

Brandon Stevens, Chairperson  
Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** David P. Jordan, Councilmember  
**Date:** December 16, 2015  
**Re:** Mortgage Law

On September 28, 2015, a request to develop a Mortgage Law was submitted to the Legislative Operating Committee (LOC) on behalf of the Land Commission. On October 7, 2015, the LOC added the Mortgage Law to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

A work meeting was held on December 11, 2015, with myself, the drafter from the Legislative Reference Office, and representatives from the Division of Land Management and the Law Office.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

### Requested Action

Motion to accept the memorandum regarding the status of the Mortgage Law as FYI.



# Legislative Operating Committee

## December 16, 2015

# Real Property Law Amendments

**Submission Date:** October 7, 2015

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *These amendments will transfer all Land Commission hearing responsibilities to the Judiciary.*

**10/7/15 LOC:** Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Review and accept the memo providing an update on the Real Property Law Amendments and defer the item back to the sponsor until a draft is ready.

# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

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## Committee Members

Brandon Stevens, Chairperson  
Tehassi Hill, Vice Chairperson  
Fawn Billie, Councilmember  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**To:** Legislative Operating Committee  
**From:** David P. Jordan, Councilmember  
**Date:** December 16, 2015  
**Re:** Real Property Law Amendments

On September 28, 2015, a request to amend the Real Property Law was submitted to the Legislative Operating Committee (LOC) on behalf of the Land Commission. On October 7, 2015, the LOC added the Real Property Law amendments to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

A work meeting was held on December 11, 2015, with myself, the drafter from the Legislative Reference Office, and representatives from the Division of Land Management and the Law Office. While the primary focus of the amendments is to transfer hearing body authority from the Land Commission to the Judiciary, the Law requires extensive updating to align with the LOC's drafting SOPs and to provide greater clarity as to the intent of the Law.

I am asking that you defer this item back to my office for further work and I will bring back the Law when it is ready.

### Requested Action

Motion to accept the memorandum regarding the status of the Real Property Law amendments as FYI.



# Legislative Operating Committee

## December 16, 2015

### Garnishment Amendments

**Submission Date:** 8/5/15

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** David P. Jordan

**Summary:** *This item was brought to the LOC by the Judiciary to request an amendment to the ordinance which would allow the Judiciary to include interest when a garnishment is ordered as some creditors have been requesting interest, and the Judiciary has been denying it because the ordinance is silent.*

**8/5/15 LOC:** Motion by David P. Jordan to add the Garnishment Ordinance Amendments to the active files list with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

**9/16/15 LOC:** Motion by David P. Jordan to defer Garnishment Ordinance Amendments to the sponsor's office to work with the Chief Financial Officer for recommendations, and bring back with the required analysis within 60 days; seconded by Tehassi Hill. Motion carried unanimously.

**12/2/15 LOC:** Motion by Jennifer Webster to accept the legislative analysis of the Garnishment Amendments with the directed change to the law, and prepare for a public meeting date of January 21, 2016; seconded by Fawn Billie. Motion carried with Fawn Billie abstaining.

*Note: the directed change requires Tribal departments to pay filing fees instead of being exempt.*

- **Next Steps:** Review the public meeting packet for the Garnishment Amendments and approve for a public meeting to be held on January 21, 2015.





*Notice of*

# Public Meeting

*to be held*

**January 21, 2016 at 12:15 p.m.**

**OBC Conference Room—2nd Floor, Norbert Hill Center**



## ***Topic: Garnishment (Law) Amendments***

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal for amendments to the Garnishment (Law) that:

- ♦ Removes the specific amount of the garnishment action fee and the administrative fee from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount [See 58.5-2 (a) (1) and 58.5-5 (a) (1)]. The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00.
- ♦ Limits representation to an attorney or advocate [See 58.5-3 (d)]. The current Law allows the parties to be represented by someone to speak on their behalf.
- ♦ Requires post judgment interest be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order is satisfied [See 58.5-3 (d)]. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment [See 58.5-5 (d) (1) & (2)].

**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 January 28, 2016**

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](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact the Legislative Reference Office, 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](mailto:LOC@oneidanation.org)  
Fax: (920) 869-4040**



**Chapter 58**  
**Garnishment**  
Lotihwistáhkwa Olihwa·ke  
the matter of taking money out

58.1. Purpose and Policy  
58.2. Adoption, Amendment, Repeal  
58.3. Definitions  
58.4. General

58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe for the subject action.  
58.5. Garnishment Action Procedure  
58.6. Recognition of Child Support Orders  
58.7. Discharge from Employment

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**58.1. Purpose and Policy**

58.1-1. The purpose of this Law is to exercise the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt.

58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due process.

**58.2. Adoption, Amendment, Repeal**

58.2-1. This Law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-G and amended by resolution BC-06-25-14-B and \_\_\_\_\_.

58.2-2. This Law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Oneida Legislative Procedures Act.

58.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

58.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provision of this Law controls.

58.2-5. This Law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**58.3. Definitions**

58.3-1. This Article governs the definitions of words or phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

(a) "Accounting Department" means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.

(b) "Administrative Fee" means the fee to cover the Accounting Department's costs associated with enforcing Garnishment Orders.

(c) "Creditor" means anyone who is awarded a money Judgment which may include a Tribal or a non-Tribal entity. Should the Tribe be the creditor, a designee from the Tribal entity shall represent the claim of indebtedness.

(d) "Debtor" means the Employee whom the Judgment has been awarded against.

(e) "Disposable Earnings" means the part of the Debtor's gross Earnings for a pay period remaining after deductions required by state and federal law.

(f) "Earnings" means compensation payable in exchange for personal services and includes, but is not limited to, wages, salaries, bonuses, commissions, expense

reimbursements, trade-back-for-cash benefits and/or final paychecks involving pay-out of benefits.

(g) “Employee” means any individual hired by the Tribe and on the Tribe’s payroll and encompasses all forms of employment, including but not limited to, full-time, part-time, at-will, elected/appointed officials, political appointees and contracted persons.

(h) “Garnishment” means the legal process in which the Earnings of the Debtor is required to be withheld by the Tribe for a payment of a money judgement.

(i) “Garnishment Action Fee” means the fee paid to the Judiciary to cover the administrative costs incurred during the Garnishment proceedings.

(j) “Garnishment Hearing” means the time and location where the Judiciary hears relevant evidence, determines the validity of the Petition for Garnishment and identifies the amount of the Garnishment Order, if applicable.

(k) “Garnishment Order” means the order issued by the Judiciary which requires the Tribe to withhold an Employee’s Earnings in order to satisfy a Creditor’s unpaid money Judgment and must include any fees assessed against the Debtor.

(l) “Judge” means the member of the Judiciary assigned to hear the Petition for Garnishment.

(m) “Judgment” means any judgment, decree, or order from a court of competent jurisdiction, including, but not limited to, the Judiciary, which awards money to one or more parties.

(n) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.

(o) “Petition” means a formal written request to the Judiciary to issue a Garnishment Order.

(p) “Judge” means the member of the Judiciary assigned to hear the Petition for Garnishment.

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

#### **58.4. General**

58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe for the subject action.

58.4-2. Consumer Protection Act. This Law may be interpreted to allow the fullest protections available to Debtors by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws protecting Debtors in Child Support Orders, and other federal laws.

#### **58.5. Garnishment Action Procedure**

58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

58.5-2. Filing Action. In order to initiate a Garnishment, the Creditor must file a petition with the Judiciary. The Petition must identify the Creditor, the intended Debtor, any other interested parties, the reason for the claim, the name of the court that issued the Judgment and the amount awarded. The Creditor must include a copy of the Judgment when filing the Petition.

(a) The Creditor shall pay the Garnishment Action Fee before the Judiciary may consider the Petition complete.

(1) The Judiciary shall determine the amount of the Garnishment Action Fee and post notice of the fee amount at the Judiciary and on the Judiciary’s webpage.

58.5-3. Garnishment Hearing. The Judiciary shall hold a Garnishment Hearing within sixty (60) days of receiving the completed Petition.

(a) The Judiciary shall provide written notice of the garnishment hearing to the Creditor, Debtor and any other interested parties within ten (10) business days of receiving the completed petition.

(b) The Debtor may challenge the authenticity of the Judgment document at the Garnishment Hearing but he or she may not challenge the validity of the Judgment.

(c) A Garnishment Hearing may be used to resolve one (1) or more Petitions for one (1) or more Debtors; however, each Petition must be heard and determined separately.

(d) Throughout the Garnishment proceedings, the parties may choose to represent themselves or may be represented by an attorney or advocate. All parties shall have an equal opportunity to present evidence at the Garnishment Hearing.

58.5-4. Final Decision. The Judge shall make the final decision regarding a Garnishment Order within five (5) business days of the Garnishment Hearing. The Judge shall provide written notice of the final decision to all parties within ten (10) business days of his or her decision. If a Garnishment Order is issued, the written notice must include a copy of the Garnishment Order.

58.5-5. Garnishment Orders. Should the Judiciary issue a Garnishment Order, it must include the following:

(a) An Administrative Fee which must be assessed against the Debtor each pay period until the Garnishment Order is paid in full.

(1) The Accounting Department shall determine the amount of the Administrative Fee and provide notice of the fee amount to the Judiciary. The Judiciary shall post notice of the Administrative Fee amount in the Judiciary and on the Judiciary's webpage.

(b) The Garnishment Action Fee which must be awarded to the Creditor.

(c) The Garnishment amount. The Judge must begin with a presumption that a total of twenty percent (20%) of a Debtor's Disposable Earnings per pay period may be subject to Garnishment(s) at any one time

(1) In calculating the amount of the Garnishment per pay period, the Judge may not include amounts garnished pursuant to child support orders when calculating twenty percent (20%) of the Debtor's Disposable Earnings.

(A) The Debtor may request the Judiciary to lower the percentage deducted from his or her disposable earnings if the he or she can show that requiring a deduction of the maximum twenty percent (20%) would cause him or her undue harm by demonstrating that one (1) or more of the following apply:

(i) The Debtor is subject to child support orders that would leave him or her with less than fifty percent (50%) of his or her Earnings;

(ii) The Debtor receives, is eligible for or, within six (6) months of the date the Judiciary received the completed Petition, received public assistance;

(iii) The Debtor's household income is below the current federal poverty level;

(iv) The Garnishment of twenty percent (20%) of the Debtor's disposable earnings would cause the Debtor's household income to drop below the current federal poverty level; or

(v) The Garnishment of twenty percent (20%) of the Debtor's disposable earnings would cause the Debtor undue harm for reasons not identified in this section.

(2) The Debtor may request a higher percentage be deducted from his or her disposable earnings. Such requests must be made directly to the Judiciary.

(3) Nothing in this Law prohibits the Debtor from making additional payments to satisfy the Garnishment Order, provided that, if a Creditor receives payments from the Debtor outside of the Garnishment process, he or she must provide notice of said payment to the Accounting Department with a copy to the Debtor.

(d) Post Judgment Interest. Post Judgment interest must be applied to the amount recovered from the date of the Judgment until the Garnishment Order is satisfied. The post Judgment interest rate must be fixed for the duration of the Garnishment Order and is determined by one (1) of the following:

(1) An agreement by the parties to the Garnishment as to a fair annual post Judgment interest rate; or

(2) An annual post Judgment interest rate equal to one percent (1%) plus the prime rate in effect on the date in which the Judgment was awarded, as reported by the Federal Reserve Board in federal reserve statistical release H. 15.

58.5-6. Notice of Garnishment to Accounting Department. The Judiciary shall provide the Accounting Department with a copy of the Garnishment Order after the timeframe for all appeals has been exhausted.

58.5-7. Garnishment Implementation. Within ten (10) business days of receiving a copy of the Garnishment Order the Accounting Department shall implement the Garnishment by:

(a) Deducting the appropriate amount from the Debtor's paycheck(s) and forward that amount to the Creditor; and

(b) Notify the Debtor and Creditor when the Garnishment Order has been fulfilled.

58.5-8. Summary Process. The Judiciary shall summarily process Petitions when the Debtor owes fifty dollars (\$50) or less, unless the Debtor formally requests a Garnishment Hearing.

(a) For the purposes of this section, to summarily process a Petition means a Judge may make a determination regarding the Garnishment Order without holding a Garnishment Hearing.

58.5-9. Appeals. A party may appeal the decision regarding a Garnishment Order, provided that the appeal must be submitted within ten (10) business days from the date of the notice of the Judge's determination. The appeal shall be filed with the Judiciary's Court of Appeals in accordance with the Judiciary Law and any applicable rules and procedures.

58.5-10. Records. The Judiciary shall keep records of all Garnishment actions. The records must contain, at minimum:

(a) Correspondence and notices to all parties involved;

(b) Bookkeeping records;

(c) Garnishment evidence presented by all parties and

(d) Decisions made by the Judge.

## **58.6. Recognition of Child Support Orders**

58.6-1. Orders for child support against any Employee must be recognized and enforced, provided that the order has been issued from a court of competent jurisdiction.

58.6-2. Authenticity of Order. The Judiciary must receive such child support orders and shall verify the authenticity of such orders. Upon verification of the child support order, the Judge shall forward such order to the Accounting Department for action.

58.6-3. Administrative Fee. An Administrative Fee must be assessed monthly so long as the child support deduction is in effect.

#### **58.7. Discharge from Employment**

58.7-1. The Tribe shall not discharge from employment, refuse to employ or otherwise take disciplinary action against an Employee solely because the Employee is subject to a Garnishment action.

*End.*

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Adopted - BC-6-2-92

Adopted - BC-6-10-92

Adopted - BC-4-2-97-G

Amended - BC-06-25-14-B

**Chapter 58**  
**Garnishment Ordinance**  
Lotihwistáhkwa Olihwá·ke  
the matter of taking money out

58.1. Purpose and Policy  
58.2. Adoption, Amendment, Repeal  
58.3. Definitions  
58.4. General

58.5. Garnishment Action Procedure  
58.6. Recognition of Child Support Orders  
58.7. Discharge from Employment

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Garnishment (Law)				
<b>Requester</b>	Judiciary	<b>Drafter</b>	Krystal L. John	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	To state whether or not the Judiciary can include interest when a garnishment is ordered.				
<b>Purpose</b>	The purpose of this Law to utilize the authority of the Tribe to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt [See 58.1-1].				
<b>Authorized/ Affected Entities</b>	Tribal employees that incur personal debt, the Accounting Department, the Judiciary (excluding the Family Court), creditors (can include Tribal entities), and a court of competent jurisdiction				
<b>Due Process</b>	A party can appeal the decision regarding a garnishment order to the Court of Appeals within ten business days from the date of the notice of the Judge's determination [See 58.5-9].				
<b>Related Legislation</b>	Related Tribal legislation includes the Judiciary Law and Rules of Appellate Procedure. The Child Support Law and Per Capita Law have similar concepts.				
<b>Enforcement</b>	The Judiciary can issue a garnishment order against the debtor [See 58.5-4].				

**Overview**

This Law and the Child Support both deal with wage withholdings; however, this Law sets the hearing process for withholdings of Tribal employees that have personal debt. This personal debt can include to, but is not limited to child support orders from a court of competent jurisdiction. Child Support sets the process for child support orders made by the Family Court; those orders will not follow this Law [See 58.6 and Child Support 78.9-2].

This Law explains how a creditor can seek a garnishment order against a debtor. The creditor must file a petition with the Judiciary and once the petition is received, the Judiciary must hold a garnishment hearing within 60 days. Within five business days of the garnishment hearing, the Judge will make a final decision and notify the parties. If the Judge issues a garnishment order, he/she will calculate a percentage of the debtor's disposable income that will be garnished, starting with a presumption that 20 percent of the debtor's disposable income can be garnished. However, the debtor can request a lesser percentage be garnished from his/her disposable income if the debtor meets certain criteria. On the other hand, the debtor can also request a greater percentage be garnished. Once the garnishment order is issued, the Accounting Department will begin deducting the appropriate amount from the debtor's paycheck within ten business days of receiving a copy of the garnishment order. If the debtor owes \$50 or less, the Judge can hold a summary proceeding which does not require a formal hearing. A party can appeal the Judge's decision regarding the garnishment. An employee cannot be discharged, disciplined or an applicant cannot be turned away solely because he/she is subject to a garnishment action.

### Proposed Amendments

Although there are a number of proposed amendments made to this Law, the following amendments have the greatest impact:

- The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00. These amounts have been removed from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount *[See 58.5-2 (a) (1) and 58.5-5 (a) (1)]*.
- The current Law allows the parties to be represented by someone to speak on their behalf. The proposed amendments limit representation to an attorney or advocate *[See 58.5-3 (d)]*.
- A post judgment interest must be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order was satisfied *[See 58.5-3 (d)]*. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment *[See 58.5-5 (d) (1) & (2)]*.

### Considerations

The LOC may want to consider the following:

- These amendments require both Tribal and non-Tribal entities to pay the garnishment action fee *[See 58.5-2 (a) (2)]*. The purpose of the garnishment action fee is to cover the administrative costs incurred by the Judiciary in a garnishment proceeding *[See 58.3-1 (i)]*. The Judiciary will still incur these costs even if the creditor is a Tribal entity. The garnishment action fee is ultimately paid by the debtor through the garnishment process; however the fee is paid over time. The Judiciary would prefer to receive the garnishment action fee directly from Tribal entities at the time of filing like all other entities who file garnishments; whereas, Tribal entities do not prefer to pay the garnishment action fee to utilize the Tribe's judiciary to collect unpaid debts from Tribal employees. The LOC may want to consider the impact the garnishment action fee will have on Tribal entities' budgets as opposed to the Judiciary budget when a Tribal entity is the creditor in a garnishment action.
- The Law allows the debtor to request the Judiciary to lower the percentage deducted from his or her disposable earnings if he or she can show, among other things, that 1) the debtor receives, is eligible for or within six months from when the petition was filed, received public assistance or 2) the debtor's household income is below the federal poverty level *[See 58.5-5 (c) (1) (A) (ii & iii)]*. The Law does not address what happens if one of the above instances occurs after a garnishment order has been issued. The LOC may want to consider clarifying if a debtor can request a modification to the garnishment order.
- This Law defines Judiciary as "the judicial system that was established by . . . GTC Resolution 01-07-13-B to administer the judicial authorities and responsibilities of the Tribe" *[See 58.3-1 (n)]*. Because the Family Court was adopted pursuant to BC Resolution 05-08-13-A, it not included in the definition for "Judiciary" and cannot hold garnishment hearings in accordance with this Law.
- Because the Law does not define "court of competent jurisdiction", the LOC may want to specify if Tribal entities are considered courts of competent jurisdiction. In other words, if a Tribal entity issues a judgment, would that judgment satisfy the requirement set forth

58.5-1?

- The LOC may want to expand the definition for “earnings” to specifically exclude per capita payments. The Per Capita Law addresses how attachments are made to per capita payments [See 58.3-1 (c) and Per Capita 9.4-6].

### Miscellaneous

A public meeting has not been held. Additional changes have been made throughout the Law to ensure compliance with Tribal drafting style. In addition, revisions have been made to improve the flow and sequence of the Law without changing the intended content. Please refer to the fiscal impact statement for any financial impacts.

#### 58.1-1. Purpose and Policy

58.1-1. The purpose of this ~~Ordinance~~ Law is to ~~utilize~~ exercise the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee’s income for reduction of personal debt.

58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due ~~process.~~ process.

#### 58.2-1. Adoption, Amendment, Repeal

58.2-1. This ~~law~~ Law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-G and amended by resolution BC-06-25-14-B and \_\_\_\_\_.

58.2-2. This ~~law~~ Law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Oneida ~~Administrative~~ Legislative Procedures Act ~~by the Oneida Business Committee or Oneida General Tribal Council.~~

58.2-3. Should a provision of this ~~law~~ Law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~shall~~ does not affect other provisions of this ~~law~~ Law which are considered to have legal force without the invalid portions.

~~58.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after adoption of this policy.~~

58.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provision of this Law controls.

58.2-5. This ~~law may be cited as the~~ “Garnishment Ordinance.”

~~58.2-6. This law may be interpreted to allow the fullest protections available to respondents available by Law is adopted under the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws protecting respondents in Child Support Orders, and other federal laws authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.~~

#### 58.3-1. Definitions

58.3-1. This Article ~~shall govern~~ governs the definitions of words or phrases as used herein. All words not defined herein ~~shall are to~~ be used in their ordinary and everyday sense.

58.3-2. “Compensation” shall mean remuneration paid or (a) “Accounting Department” means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.



(b) “Administrative Fee” means the fee to cover the Accounting Department’s costs associated with enforcing Garnishment Orders, payable for personal services and travel, denominated as wages, bonuses, salary, expenses, and/or mileage. Compensation shall include any trade back for cash benefit or final paycheck involving pay out of benefits for a discharged employee.

~~58.3-3. “Creditor” shall refer to one who seeks payment from the respondent through the process of garnishment, pursuant to a Final Judgment through a garnishment action. The Oneida Tribe is not excluded from being the creditor. This includes all departments, programs, enterprises, authorities, or other bodies created pursuant to~~ (c)

“Creditor” means anyone who is awarded a money Judgment which may include a Tribal law or a non-Tribal entity. Should the Oneida Tribe be the creditor, a designee of the department, program or enterprise from the Tribal entity shall represent the claim of indebtedness.

~~58.3-4. “(d) “Debtor” means the Employee” shall mean any employee whom the Judgment has been awarded against.~~

(e) “Disposable Earnings” means the part of the Oneida Debtor’s gross Earnings for a pay period remaining after deductions required by state and federal law.

(f) “Earnings” means compensation payable in exchange for personal services and includes, but is not limited to, wages, salaries, bonuses, commissions, expense reimbursements, trade-back-for-cash benefits and/or final paychecks involving pay-out of benefits.

(g) “Employee” means any individual hired by the Tribe and on the Tribe’s payroll and encompasses all forms of employment, including but not limited to, full-time, part-time, at-will, elected/appointed officials, political appointees and contracted persons.

~~58.3-5. “Oneida Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.~~

~~58.3-6. (h) “Garnishment” shall mean means the legal process in which money in the hands Earnings of the Oneida Tribe of Indians of Wisconsin as employer, due Debtor is required to be withheld by the respondent and are being claimed by Tribe for a creditor payment of a money judgement.~~

~~58.3-7. (i) “Garnishment Action Fee” means the fee paid to the Judiciary to cover the administrative costs incurred during the Garnishment proceedings.~~

(j) “Garnishment Hearing” means the time and location where the Judiciary hears relevant evidence, determines the validity of the Petition for Garnishment and identifies the amount of the Garnishment Order, if applicable.

(k) “Garnishment Order” means the order issued by the Judiciary which requires the Tribe to withhold an Employee’s Earnings in order to satisfy a Creditor’s unpaid money Judgment and must include any fees assessed against the Debtor.

(l) “Judge” means the member of the Judiciary assigned to hear the Petition for Garnishment.

(m) “Judgment” means any judgment, decree, or order from a court of competent jurisdiction, including, but not limited to, the Judiciary, which awards money to one or more parties.

(n) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.

~~58.3-8. (o) “Petition” means a formal written request to the Judiciary to issue a Garnishment Order. “Reservation” shall mean all lands within the Oneida Indian Reservation of Wisconsin as established by the Treaty with the Oneida, 1838.~~

~~58.3-9. “Respondent” shall mean the employee (p) “Judge” means the member of the Oneida Tribe who is subject to a garnishment action within the Oneida Tribe or person subject to a repayment action.~~

~~58.3-10. “Hearing Officer” shall mean the Judiciary and the representative designated assigned to hear the garnishment action~~Petition for Garnishment.

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

#### **58.4. General**

58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe for the subject action.

58.4-2. Consumer Protection Act. This Law may be interpreted to allow the fullest protections available to Debtors by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws protecting Debtors in Child Support Orders, and other federal laws.

#### **58.5. Garnishment Action Procedure**

58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

58.5-2. Filing Action. 58.3-11. “Accounting Department” means that department of the Oneida Tribe charged with managing the finances of the Oneida Tribe, specifically, the office charged with responsibility for the payroll of the Oneida Tribe. That office shall designate a representative for receiving garnishment orders, irrevocable voluntary payroll deduction agreements, and child support orders, which shall be forwarded to the Hearing Body.

~~58.4-1. Garnishment Action Procedure. Judgement Required. A creditor shall begin a garnishment action against an employee of the Oneida Tribe by first obtaining a final judgment from an appropriate court. A garnishment action under this section shall not begin unless the creditor has already obtained a valid final judgment and can show proof of judgment to the Hearing Officer.~~

~~58.4-2. Filing Action. The creditor shall be responsible for notifying the Hearing Officer of its intent to begin the garnishment action.~~

~~(a) A written notice shall be mailed or given to the Hearing Officer indicating the creditor, the intended respondent, the reason for the claim and the amount of the claim.~~

~~(b) The Hearing Officer shall, within ten days, set a date and time for a garnishment hearing. The date for the hearing shall be within sixty days of receipt of the first notification to the Hearing Officer.~~

~~(c) It is the responsibility of the Hearing Officer to notify the creditor, respondent, and any other parties in interest as to the date, time and place of the garnishment hearing.~~

58.4-3. Hearing. The Hearing Officer shall establish a designated date, time, and place to hear evidence in In order to render a determination as to the validity of a claim by the creditor in a garnishment action and the amount of the garnishment order to be entered. Hearings shall not be utilized to initiate a Garnishment, the Creditor must file a petition with the Judiciary. The Petition must identify the Creditor, the intended Debtor, any other interested parties, the reason for the claim, the name of the court that issued the Judgment and the amount awarded. The Creditor must include a copy of the Judgment when filing the Petition.

(a) The Creditor shall pay the Garnishment Action Fee before the Judiciary may consider the Petition complete.

(1) The Judiciary shall determine the amount of the Garnishment Action Fee and post notice of the fee amount at the Judiciary and on the Judiciary's webpage.

58.5-3. Garnishment Hearing. The Judiciary shall hold a Garnishment Hearing within sixty (60) days of receiving the completed Petition.

(a) The Judiciary shall provide written notice of the garnishment hearing to the Creditor, Debtor and any other interested parties within ten (10) business days of receiving the completed petition.

(b) The Debtor may challenge the authenticity of the Judgment document at the Garnishment Hearing but he or she may not challenge the validity of the final judgement other than the authenticity of the document. The time may be Judgment.

(c) A Garnishment Hearing may be used to resolve one (1) or more deduction claims of Petitions for one (1) or more employees. However Debtors; however, each claim shall Petition must be heard and determined separately. This hearing will be known as the Garnishment Hearing.

~~58.4-4. (d) Throughout the Garnishment proceedings, the parties may choose to Final Decision. The Hearing Officer will make the final decision as to the garnishment action within five days of the garnishment hearing and notify by formal order all parties within ten days of the decision.~~

~~58.4-5. Representation. The respondent and creditor may represent themselves or may be represented by someone to speak on their behalf, if they so choose. Both an attorney or advocate. All parties shall have an equal opportunity to present evidence as to the action to be taken before a Hearing Officer at the garnishment hearing at the Garnishment Hearing.~~

~~58.4-6. Notice of Garnishment. 58.5-4. Final Decision. The Hearing Officer will notify the Accounting Department should a decision to garnish an employee's compensation be made. Such notice shall be forwarded after the deadline for an appeal has passed. Provided that, no garnishments shall be allowed where an appeal has been filed by an employee within the appeal deadline. The notice shall contain the amount to be garnished, how long the garnishment will take place or the number of garnishment and any related fees authorized under this Ordinance.~~

~~58.4-7. The Judge shall make the final decision regarding a Garnishment Order within five (5) business days of the Garnishment Hearing. The Judge shall provide written notice of the final decision to all parties within ten (10) business days of his or her decision. If a Garnishment Order is issued, the written notice must include a copy of the Garnishment Order.~~

58.5-5. Garnishment Orders. Should the Judiciary issue a Garnishment Order, it must include the following:

(a) An Administrative Fee which must be assessed against the Debtor each pay period until the Garnishment Order is paid in full.

~~(1) Garnishment Implementation. The Accounting Department shall begin garnishments within ten days of notification of the judgment. The Accounting Department shall then:~~

~~(a) Send to the creditor the allowable determine the amount garnished from the employee's paycheck following each payroll period of the Administrative Fee and provide notice of the fee amount to the Judiciary. The Judiciary shall post notice of the Administrative Fee amount in the Judiciary and on the Judiciary's webpage.~~

(b) The Garnishment Action Fee which must be awarded to the Creditor.

(c) The Garnishment amount. The Judge must begin with a presumption that a total of twenty percent (20%) of a Debtor's Disposable Earnings per pay period may be subject to Garnishment(s) at any one time

(1) In calculating the amount of the Garnishment per pay period, the Judge may not include amounts garnished pursuant to child support orders when calculating twenty percent (20%) of the Debtor's Disposable Earnings.

(A) The Debtor may request the Judiciary to lower the percentage deducted from his or her disposable earnings if the he or she can show that requiring a deduction of the maximum twenty percent (20%) would cause him or her undue harm by demonstrating that one (1) or more of the following apply:

(i) The Debtor is subject to child support orders that would leave him or her with less than fifty percent (50%) of his or her Earnings;

(ii) The Debtor receives, is eligible for or, within six (6) months of the date the Judiciary received the completed Petition, received public assistance;

(iii) The Debtor's household income is below the current federal poverty level;

(iv) The Garnishment of twenty percent (20%) of the Debtor's disposable earnings would cause the Debtor's household income to drop below the current federal poverty level; or

(v) The Garnishment of twenty percent (20%) of the Debtor's disposable earnings would cause the Debtor undue harm for reasons not identified in this section.

(2) The Debtor may request a higher percentage be deducted from his or her disposable earnings. Such requests must be made directly to the Judiciary.

(3) Nothing in this Law prohibits the Debtor from making additional payments to satisfy the Garnishment Order, provided that, if a Creditor receives payments from the Debtor outside of the Garnishment process, he or she must provide notice of said payment to the Accounting Department with a copy to the Debtor.

(d) Post Judgment Interest. Post Judgment interest must be applied to the amount recovered from the date of the Judgment until the Garnishment Order is satisfied. The post Judgment interest rate must be fixed for the duration of the Garnishment Order and is determined by one (1) of the following:

(1) An agreement by the parties to the Garnishment as to a fair annual post Judgment interest rate; or

(2) An annual post Judgment interest rate equal to one percent (1%) plus the prime rate in effect on the date in which the Judgment was awarded, as reported by the Federal Reserve Board in federal reserve statistical release H. 15.

58.5-6. Notice of Garnishment to Accounting Department. The Judiciary shall provide the Accounting Department with a copy of the Garnishment Order after the timeframe for all appeals has been exhausted.

58.5-7. Garnishment Implementation. Within ten (10) business days of receiving a copy of the Garnishment Order the Accounting Department shall implement the Garnishment by:

(a) Deducting the appropriate amount from the Debtor's paycheck(s) and forward that amount to the Creditor; and

(b) Notify the ~~employee~~Debtor and ~~creditor~~Creditor when the ~~garnishments are terminated~~Garnishment Order has been fulfilled.

~~58.45-8. Summary Process. Where the claim of indebtedness is \$50.00 or less, it shall be processed. The Judiciary shall summarily by the Hearing Officer process Petitions when the Debtor owes fifty dollars (\$50) or less, unless the debtor~~Debtor formally requests a ~~hearing~~Garnishment Hearing.

~~(a) For the purposes of this section, to summarily process a Petition means a Judge may make a determination regarding the Garnishment Order without holding a Garnishment Hearing.~~

~~58.45-9. Appeals. A respondent has~~party may appeal the decision regarding a Garnishment Order, provided that the appeal must be submitted within ten (10) business days from the date of receipt of the notice to file an appeal of a garnishment order~~the Judge's determination. The appeal shall be filed with the Judiciary's Court of Appeals in accordance with the Judiciary Law and any applicable rules and procedures.~~

~~58.45-10. Records. The Hearing Officer~~Judiciary shall keep ~~complete~~ records of all ~~garnishment~~Garnishment actions ~~that are started and/or completed.~~ The records ~~shall~~must contain, at minimum:

- ~~(a) Correspondence and notices to all parties involved.;~~
- ~~(b) Bookkeeping records.;~~
- ~~(c) Garnishment evidence presented by all parties. and~~
- ~~(d) Decisions made by the Hearing Officer~~Judge.

~~58.5-1. Garnishment Action Fee. At the time of creditor's first notice to the Hearing Officer, the creditor shall pay a fee of \$25.00 which shall be known as the Garnishment Action Fee. The Hearing Officer is not required to begin any action on the claim until the fee is paid. The fee shall be charged to the respondent should a decision be made to garnish. The fee will be applicable in each case, except that in cases where indebtedness is with a department, program or enterprise of the Oneida Tribe.~~

~~58.5-2. Administrative Fee. An administrative fee of \$5.00 shall be deducted monthly along with the ordered garnishment until the amount claimed is paid in full. This fee is to cover the cost of garnishing as expended by the Accounting Department.~~

~~58.5-3. Amount of Garnishment. The Hearing Officer may order the employee's compensation to be subject to a garnishment of up to twenty percent of the employee's disposable weekly wage, the remainder to be identified as a protected subsistence allowance. Provided that, in calculating twenty percent, the Hearing Officer shall not include amounts garnished regarding child support orders. The employee may voluntarily request more to be deducted. The request shall be made directly to the Accounting Department.~~

~~58.5-4. Exceptions to 20 % Presumption. It is presumed that the beginning amount to be deducted in any garnishment hearing shall begin at twenty percent of the employee's weekly wages. The respondent is responsible for presenting evidence that it is unreasonable to require the full twenty percent to be deducted. Examples of exceptions shall include, but not be limited to, pre-existing garnishment orders, child support orders that would leave less than 50% of the debtor's wages, other evidence presented which would cause garnishments such that additional garnishment orders would cause undue harm.~~

~~58.6-1. Irrevocable Voluntary Payroll Deduction.~~ An employee may request an irrevocable voluntary payroll deduction negotiated with a creditor for legal debts. The request must be signed by the employee and submitted to the Accounting Department.

~~58.6-2. Preemption of Garnishment Action.~~ If the request is made prior to a garnishment action decision or during a garnishment action:

(a) ~~The irrevocable voluntary payroll deduction request must be made to the Hearing Officer.~~

(b) ~~The Hearing Officer shall notify the creditor of the request.~~

(c) ~~If the parties agree, the Hearing Officer may then cancel the hearing, notify all parties and forward the executed agreement to the Accounting Department.~~

~~58.6-3. Administrative Fee.~~ An administrative fee of \$5.00 shall be assessed monthly so long as the irrevocable voluntary payroll deduction is in effect.

#### ~~58.7-1. Recognition of Order~~ Child Support Orders

~~58.6-1.~~ Orders for child support against any ~~employee shall~~ Employee must be recognized and enforced, provided that the order has been issued from a court of competent jurisdiction.

~~58.7-2.~~ Authenticity of Order. The ~~Hearing Officer shall~~ Judiciary must receive such child support orders; and shall verify the authenticity of ~~the order~~ such orders. Upon verification of the child support order, the ~~Hearing Officer~~ Judge shall forward such order to the Accounting Department for action.

~~58.7-3.~~ Administrative Fee. An ~~administrative fee of \$5.00 shall~~ Administrative Fee must be assessed monthly so long as the child support deduction is in effect.

#### ~~58.8-17.~~ Discharge from Employment

~~58.7-1.~~ The ~~Oneida~~ Tribe shall not discharge ~~an employee because an employee is being subjected from employment, refuse to garnishment actions~~ employ or otherwise take disciplinary action against an Employee solely because the Employee is subject to a Garnishment action.

~~58.8-2. Jurisdiction.~~ All creditor filing a garnishment action must sign a Jurisdiction Submission Statement. The statement will indicate that the creditor is submitting to the jurisdiction of the Oneida Tribe in that particular action.

*End.*

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Adopted - BC-6-2-92

Adopted - BC-6-10-92

Adopted - BC-4-2-97-G

Amended - BC-06-25-14-B



# Legislative Operating Committee

## December 16, 2015

# Land Commission Bylaw Amendments

**Submission Date:** 10/7/15

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *These requested amendments will remove the hearing authority from the Land Commission and transfer it to the Judiciary.*

**10/7/15 LOC:** Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

### Next Steps:

- Accept the memorandum regarding the status of the Land Commission Bylaw Amendments as FYI and defer the item back to the sponsor until a draft is ready.



# 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  
David P. Jordan, Councilmember  
Jennifer Webster, Councilmember

## Memorandum

**TO:** Legislative Operating Committee  
**FROM:** David P. Jordan  
**DATE:** December 16, 2015  
**RE:** Land Commission By-law Amendments

On September 28, 2015, a request to amend the Land Commission By-laws was submitted to the Legislative Operating Committee (LOC) on behalf of the Land Commission. On October 7, 2015, the LOC added the Land Commission By-Law amendments to the active files list, with myself as the sponsor. Approximately sixty days have passed since the original submission and this memorandum serves as an update as to where the legislation is at in the LOC process.

The Legislative Reference Office (LRO) has reviewed the by-laws and provided an updated draft to the Land Commission on December 9, 2015. The LRO is now waiting for feedback from the Land Commission regarding the revisions made to the by-laws. I am asking that you defer this item back to my office for further work and I will bring back the by-laws when they are ready.

### Requested Action

Motion to accept the memorandum regarding the status of the Land Commission By-law Amendments as FYI and to defer the item back to my office until a draft is ready.



**Oneida Tribe of Indians of Wisconsin  
Legislative Reference Office**

Krystal L. John, Staff Attorney  
Douglass A. McIntyre  
Taniquelle 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:** Legislative Operating Committee  
**FROM:** Krystal L. John, Staff Attorney  
**DATE:** December 16, 2015  
**RE:** E-Poll Results for Rescheduling two Public Meetings

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A Public Meeting was originally scheduled to be held on December 3, 2015 for both the amendments to the Comprehensive Policy Governing Boards, Committees and Commission and the Administrative Rulemaking Law as approved by the Legislative Operating Committee (LOC) on November 4, 2015.

Section 16.8-2 of the Legislative Procedures Act requires that "...A minimum of ten (10) business days before a public meeting is held, the notice, legislation, legislative analysis and fiscal impact statement, if a fiscal impact statement is available, shall be: (a) made publically available in the Oneida Register; (b) electronically provided to all managers and directors; (c) published in the Kalihiwisaks or other Tribal publication of similar distribution, provided that only notice of a public meeting and how to receive public meeting documents shall be required to be posted in the Kalihiwisaks."

The electronic notice to all managers and directors as required in (b) was overlooked and the ten (10) day notice requirement was not satisfied. Accordingly, the public meetings were rescheduled.

Please accept the attached results of the E-Poll that was conducted on December 2, 2015 to approve the revised public meeting packets for public meetings to be held on January 7, 2016 regarding the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions and the Administrative Rulemaking Law.

**Krystal John**

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**From:** Krystal John  
**Sent:** Wednesday, December 02, 2015 2:47 PM  
**To:** Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill  
**Cc:** Candice E. Skenandore  
**Subject:** Rulemaking and Comprehensive Policy Public Meetings  
**Attachments:** 2016 01 07 Administrative Rulemaking PM Packet.pdf; 2016 01 07 Comprehensive Policy PM Packet.pdf  
  
**Importance:** High

LOC,

Please respond with your approval of these revised public meeting packets for meetings to be held on January 7, 2016 together with the APA, which was approved at today's meeting. We need to cancel the meeting for tomorrow because I unfortunately forgot to send the electronic notice to directors and managers that is required by the LPA. We need your approval today so that we can send this packet off for publishing.

Thank you and I apologize for the inconvenience.

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**From:** Brandon L. Yellowbird-Stevens  
**Sent:** Wednesday, December 02, 2015 4:04 PM  
**To:** Krystal John  
**Subject:** RE: Rulemaking and Comprehensive Policy Public Meetings

Support

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**From:** Jennifer A. Webster  
**Sent:** Wednesday, December 02, 2015 2:54 PM  
**To:** Krystal John; Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Ronald W. Hill  
**Cc:** Candice E. Skenandore  
**Subject:** RE: Rulemaking and Comprehensive Policy Public Meetings

Approve,  
Jenny

---

**From:** David P. Jordan  
**Sent:** Wednesday, December 02, 2015 2:58 PM  
**To:** Krystal John; Brandon L. Yellowbird-Stevens; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill  
**Cc:** Candice E. Skenandore  
**Subject:** RE: Rulemaking and Comprehensive Policy Public Meetings

support

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**From:** Ronald W. Hill  
**Sent:** Wednesday, December 02, 2015 5:48 PM  
**To:** Krystal John; Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Jennifer A. Webster  
**Cc:** Candice E. Skenandore  
**Subject:** Re: Rulemaking and Comprehensive Policy Public Meetings

Approve.

Sent using OWA for iPhone

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# Oneida Tribe of Indians of Wisconsin

## Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

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



## Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

## Quarterly Report Legislative Operating Committee July - September 2015

### 1. Purpose and Mission

The purpose and mission of the Legislative Operating Committee (LOC) is to enhance the policymaking capability of the Oneida Business Committee (OBC) and the General Tribal Council (GTC) by drafting laws and policies and reviewing past and current laws, policies and regulations of the Oneida Tribe.

A legislative analysis is completed for proposed laws, policies, regulations, bylaws and amendments. Public meetings are facilitated by the LOC in accordance with the Legislative Procedures Act (LPA). A Resolution and Statement of Effect are prepared for all legislation that is presented for final adoption which is submitted to the OBC and/or GTC for approval.

### 2. Members

The LOC is comprised of the five council members of the OBC: Brandon Stevens (Chair), Tehassi Hill (Vice-Chair), Jennifer Webster, Fawn Billie, and David P. Jordan.

### 3. Contact Information

The LOC office is located on the second floor in the Norbert Hill Center. For more information, please contact the Legislative Reference Office (LRO) at (920) 869-4376 or e-mail [LOC@oneidanation.org](mailto:LOC@oneidanation.org).

### 4. Meetings

The LOC holds regular meetings on the first and third Wednesday of every month. The meetings begin at 9:00 a.m., and are held in the Norbert Hill Center - Second Floor, Business Committee Conference Room.

### 5. Prioritization

The LOC continuously reviews the proposals on our Active Files List (AFL). Priorities are identified based on GTC Directive, OBC Directive and by LOC agreement/consensus.

### 6. Summary

During this reporting period (July, August, and September 2015), the LOC:

- Added 11 legislative items to the Active Files List (AFL), declined a request to add one item to the AFL; and completed processing one legislative item; bringing the total number of legislative items on the AFL to 48, as of October 1, 2015.
- Completed processing emergency amendments to one Tribal law and an extension of emergency amendments to one Tribal law.
- Added one administrative item (a GTC petition) to the Active Files List and completed processing legislative analyses for two GTC petitions; bringing the total number of legislative analyses prepared for GTC petitions this term to 14.
- Completed two additional administrative items.
- Held one Public Meeting.

### **Legislative Items Added to the Active Files List**

Of the eleven items added to the AFL during the reporting period, eight are proposals to amend existing Tribal laws, and three are proposals for new Tribal laws:

1. **New Law: Compliance and Enforcement.** This is a proposal for a new Tribal law that would establish a centralized entity responsible for:
  - overseeing compliance with Tribal laws,
  - reviewing existing legislation and presenting recommendations for new laws or amendments to existing laws to the LOC, and
  - tracking OBC and GTC directives and regularly reporting on the progress of those directives, so that responsible parties can be identified and held accountable. *Added to the Active Files List on 8/19/15.*
2. **New Law: Secured Transactions.** This is a proposal for a new law to assert the Tribe's sovereign status by establishing a Tribal office for recording security interests in collateral. The Law also establishes regulations which identify a creditor's priority in collateral, and governs the disposition of collateral to satisfy creditors. *Added to the Active Files List on 8/19/15.*
3. **New Law: Business Committee Meetings.** This is a proposal for a new law to govern the structure of OBC meetings and establish an efficient process for conducting Tribal business. *Added to the Active Files List on 9/2/15.*
4. **Amendments: Public Use of Tribal Land.** Proposed amendments to the Law enable the Environmental Resource Board to prescribe permissible and prohibited uses for Tribal lands designated as Oneida Community Access, Oneida Tribal Member Access or Open Access, and which would allow for enforcement of such uses. *Added to the Active Files List on 7/1/15.*
5. **Amendments: Community Support Fund Policy.** This item was brought forward to reconcile the Policy with language found in BC Resolution 12-11-13-D - clarifying that someone who receives assistance from the Fund program does not have to cost share if they are at or below the federal Poverty Guidelines. *Added to the Active Files List on 7/1/15.*
6. **Amendments: Per Capita Law.** The Trust Department has requested revisions to several provisions of the law, including changes that would modify the frequency of form requirements and in elder distributions, and incorporate fees for stop payments and closed bank accounts. *Added to the Active Files List on 7/15/15.*
7. **Amendments: Oneida Rules of Civil Procedure.** This is a request to amend the Rules of Civil Procedure to remove the filing fee requirement when it is a Tribal entity filing and modify the requirements of service for Tribal entities. *Added to the Active Files List on 7/15/15.*
8. **Amendments: Cemetery Law.** This request for amendments was brought to the LOC by the Oneida Law Office. Amendments were requested to correct the name of the Cemetery, which was changed by resolution of the Oneida Land Commission on May 11, 2015. Additional

revisions may also be necessary to change who is responsible for the cemetery's maintenance. *Added to the Active Files List on 8/5/15.*

9. **Amendments: Garnishment Law.** The Judiciary requested amendments to the Ordinance which would allow the Judiciary to include interest when a garnishment is ordered; because some creditors have been requesting awards of interest on judgments, but the Judiciary has been denying those requests because the ordinance is silent. *Added to the Active Files List on 8/5/15.*
10. **Amendments: Domestic Animals Ordinance.** This request has been submitted to protect community members from disease, set minimum standards for treatment of animals, prohibit certain animals from being brought on the Reservation, regulate livestock, and establish consequences for damages caused by domestic animals. *Added to the Active Files List on 9/16/15.*
11. **Amendments: Legislative Procedures Act.** Changes have been requested to ensure the LPA is consistent with the Legislative Reference Office's Standard Operating Procedures for drafting legislation, and to establish requirements related to how tribal policies are created and amended. *Added to the Active Files List on 9/16/15.*

### **Legislative Items the LOC Declined to Add to the Active Files List**

On July 15, 2015, the LOC declined a request from the Finance Department to make emergency amendments to the Per Capita Law that would change deadlines so that the 2015 per capita distributions could be attached by Tribal entities.

### **Legislative Items Completed**

One legislative item was completed during this reporting period and removed from the Active Files List - Permanent amendments to the **Oneida Nation Gaming Ordinance** were adopted by the OBC on September 9, 2015, pending approval from the National Indian Gaming Commission.

### **Emergency Actions**

During this quarter, the OBC adopted the following on an emergency basis:

- **Emergency amendments to the Public Use of Tribal Land Law** were adopted by the OBC on July 8, 2015. The amendments enable the Environmental Resource Board to prescribe permissible and prohibited uses for Tribal lands designated as Oneida Community Access, Oneida Tribal Member Access or Open Access; and allow for enforcement of such uses. The amendments were adopted on an emergency basis so that they could be in effect while the LOC processes the amendments for permanent adoption.
- **Administrative Procedures Act (APA) Emergency Amendments Extension.** With the adoption of the Judiciary Law, the APA was set to be repealed as of March 1, 2015. If repealed at that time, it would have left various Tribal hearing bodies without any rules to govern hearings. On February 25, 2015, a revised APA was adopted on an emergency basis to address that issue. During this reporting period, on August 26, 2015, the OBC adopted a resolution extending extended the emergency amendments for up to an additional six months.

In addition to these two items, amendments to one other Law are currently in effect on an emergency basis: on June 28, 2015, the OBC adopted emergency amendments to the Election Law after the Nation's voters passed five amendments to the Oneida Tribal Constitution; including one amendment which lowered the voting age to 18. The Election Law was amended on an emergency basis to reflect the lowered voting age before an upcoming election.

### **Added/Processed Administrative Items**

**GTC Petitions.** During this quarter, one new GTC petition was deferred to the LOC for legislative analysis; and legislative analyses for two GTC petitions were completed and accepted by the OBC.

- On July 1, 2015, the LOC added **Petition: Powless Per Capita Payments** to the Active Files List. On August 17, 2015, the OBC accepted the legislative analysis prepared for this item.
- On August 19, 2015, the OBC accepted the Statements of Effect for **Petition: Cornelius 4 Resolutions**. This item was added to the Active Files List during the previous quarter.

### **Other Administrative Tasks.**

- A comprehensive research memorandum was prepared regarding **Petition: Constitution Amendments** (in regards to Membership to the OBC). This research memorandum was submitted to the OBC on August 5, 2015.
- On August 5, 2015, the LOC forwarded a **Tribal Hearing Bodies/Administrative Court Action Plan** to the OBC for consideration. On September 16, 2015, the LOC also forwarded an update on this item to the OBC with an updated chart.

### **Public Meetings**

The LOC held one Public Meeting during the reporting period - on July 30, 2015, for the proposed amendments to the Oneida Nation Gaming Ordinance.

**Person responsible for this report and contact information:** Brandon Stevens, Legislative Operating Committee Chair. Phone: (920) 869-4378.

# December 2015

December 2015							January 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	8	9	10	11	12	10	11	12	13	14	15	16
20	21	15	16	17	18	19	17	18	19	20	21	22	23
27	28	22	23	24	25	26	24	25	26	27	28	29	30
		29	30	31			31						

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Nov 29 - Dec 5	<b>Nov 29</b>	<b>30</b>	<b>Dec 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L 9:00am 2:00pm LOC Meeting (BC_Conf_Room) - D	12:15pm 3:15pm Public Meeting: Comprehensive Policy and Administrative Rulemaking (BC_Co	10:00am 12:00pm LOC Work Meeting: Removal Law Amen 3:00pm 4:30pm LOC Work Meeting: Community Support	
Dec 6 - 12	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
		9:00am 2:00pm LOC Meeting (BC_Conf_Room) - Douglass A. McIntyre					
Dec 13 - 19	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
Dec 20 - 26	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
Dec 27 - Jan 2	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>Jan 1, 16</b>	<b>2</b>



# January 2016

January 2016							February 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2	7	1	2	3	4	5	6
10	11	12	13	14	8	9	14	8	9	10	11	12	13
17	18	19	20	21	15	16	21	15	16	17	18	19	20
24	25	26	27	28	22	23	28	22	23	24	25	26	27
31					29	30		29					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12/27 - 1/1	<b>Dec 27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>Jan 1, 16</b>	<b>2</b>
1/3 - 8	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L 9:00am 2:00pm LOC Meeting (BC_Conf_	12:15pm 2:15pm Public Meeting - Administrative Procedures Act, Administrative Rule	10:00am 12:00pm LOC Work Meeting: Community Support Fund Policy Amendments Public	
1/10 - 15	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>
1/17 - 22	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
1/24 - 29	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>
1/31 - 2/5	<b>31</b>	<b>Feb 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>