

# 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

February 3, 2016 9:00 a.m.

**I. Call to Order and Approval of the Agenda****II. Minutes to be approved**

1. January 20, 2016 LOC Meeting Minutes

**III. Current Business**

1. Administrative Procedures Act Amendments
2. Community Support Fund Policy Amendments
3. Mortgage and Foreclosure Law
4. Per Capita Law Amendments
5. Administrative Rulemaking Law
6. Comprehensive Policy Governing Boards, Committees and Commissions Amendments
7. Higher Education Scholarship

**IV. New Submissions****V. Additions****VI. Administrative Updates****VII. Executive Session****VIII. Recess/Adjourn**

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## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
January 20, 2016 9:00 a.m.

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

**OTHERS PRESENT:** Taniquelle Thurner, Krystal John, Douglass McIntyre, Maureen Perkins, Rae Skenandore, Danelle Wilson, and Michelle Mays.

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

Brandon Stevens called the January 20, 2016 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Tehassi Hill to approve the agenda with the inclusion of the Children's Code memorandum; seconded by Fawn Billie. Motion carried unanimously.

### II. Minutes to be approved

#### 1. January 6, 2016 LOC Meeting Minutes

Motion by Tehassi Hill to approve the January 6, 2016 LOC meeting minutes; seconded by David P. Jordan. Motion carried unanimously.

### III. Current Business

#### 1. Audit Committee Bylaws Amendments (02:06-04:28)

Motion by Fawn Billie to accept the updated draft and legislative analysis for the Audit Committee Bylaws Amendments and to forward the bylaws to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

#### 2. Marriage Law Amendments (04:29-5:07)

Motion by David P. Jordan to accept the Marriage Law Amendments public meeting packet and to forward to a public meeting to be held on February 18, 2016; seconded by Fawn Billie. Motion carried unanimously.

#### 3. Vendor Licensing Law Amendments (05:08-7:57)

Motion by David P. Jordan to defer the draft of the Vendor Licensing Law Amendments to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.



4. **Real Property Law Amendments (7:58-9:07)**

Motion by David P. Jordan to defer the Real Property Law Amendments to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.

5. **Garnishment Ordinance Updates (9:08-13:24)**

Motion by David P. Jordan to approve the public meeting packet for the Garnishment Amendments and to approve the rescheduled public meeting date of February 18, 2016; seconded by Tehassi Hill. Motion carried unanimously.

6. **Children's Code (13:25-19:19)**

Motion by David P. Jordan to approve the Children's Code memorandum and to forward it to the Oneida Business Committee; seconded by Tehassi Hill. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Updates**

1. **Kalihwisaks Article (19:20-21:35)**

Motion by David P. Jordan to accept the 2014-2017 Legislative Term Half Time Report Kalihwisaks Article as FYI; seconded by Jennifer Webster. Motion carried unanimously.

2. **Letter to Personnel Commission Chair (21:36-35:36)**

Motion by Jennifer Webster to accept the Letter to the Personnel Commission Chair as FYI; seconded by Tehassi Hill. Motion carried unanimously.

**VII. Executive Session**

**VIII. Recess/Adjourn**

Motion by Jennifer Webster to adjourn the January 20, 2016 Legislative Operating Committee meeting at 9:36 a.m.; seconded by Fawn Billie. Motion carried unanimously.



# Legislative Operating Committee

## February 3, 2016

# Administrative Procedures Act

**Submission Date:** 2/12/15

Public Meeting: 1/7/2016  
Emergency Enacted:

**LOC Sponsor:** Brandon Stevens

**Summary:** *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. A revised APA was adopted on an emergency basis to address that issue.*

**2/18/15 LOC:** Motion by Tehassi Hill to approve the resolution and forward to the Oneida Business Committee for consideration of adoption; seconded by Fawn Billie. Motion carried unanimously.

**2/25/15 OBC:** Motion by Tehassi Hill to adopt resolution titled Administrative Procedures Act Amendments Emergency Adoption, seconded by Trish King. Motion carried unanimously.

**8/19/15 LOC:** Motion by Jennifer Webster to approve the resolution extending the Administrative Procedures Act Emergency Amendments and forward to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

**8/26/15 OBC:** Motion by Brandon Stevens to adopt resolution 08-26-15-C Administrative Procedures Act Amendments Emergency Adoption Extension, seconded by Jennifer Webster. Motion carried unanimously.

**11/18/15 LOC:** Motion by David P. Jordan to defer the Administrative Procedures Act Amendments to the Finance Department for a fiscal impact statement and to forward the Administrative Procedures Act Amendments to a public meeting date of January 7, 2016; seconded by Fawn Billie. Motion carried unanimously.

**12/2/15 LOC:** 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.

**1/7/16:** Public Meeting Held.

### Next Steps:

- Accept the public meeting comments regarding the Administrative Procedures Act and direct the Legislative Reference Office to prepare to forward to the Oneida Business Committee for consideration.

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

Krystal L. John, Staff Attorney  
Douglass A. McIntyre, Staff Attorney  
Taniquelle J. Thurner, Legislative Analyst  
Maureen Perkins, LTE Legislative Analyst



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**Memorandum**

**TO:** Legislative Operating Committee  
**FROM:** Douglass A. McIntyre, Staff Attorney  
**DATE:** February 3, 2016  
**RE:** Administrative Procedures Act: Public Meeting Comment Review

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On January 7, 2016, a public meeting was held regarding a new proposed policy: the Administrative Procedures Act. This Policy would:

- Require hearing bodies to follow the Law when conducting hearings;
- Allow hearing bodies to develop additional hearing body procedures so long as those procedures do not conflict with the APA and are noticed to the public;
- Establishing procedural requirements for hearings, including:
  - Specifying requirements for a complaint;
  - Identifying how a complaint and summons can be served;
  - Authorizing hearing bodies to establish a regular time to hold pre-hearings and hearings;
  - Authorizing hearing bodies to designate officer and alternates to serve on the hearing body;
  - Restricting hearing officers and parties from engaging in ex parte communications;
  - Specifying when evidence is used and how it can be obtained and presented, or objected to;
  - Require a pre-hearing to be conducted, in part, to allow determine dispositive motions, identify the need for witnesses and/or evidence;
  - Implement a scheduling order and address matters that will clarify, simplify or settle the case or facilitate a just, speedy and inexpensive disposition;
  - Specifying time requirements for setting hearing dates.
- Authorize the hearing bodies to issue fines, orders and/or penalties; that comply with the Indian Civil Rights Act.
- Allow a party to appeal the hearing body's decision to the Tribe's Court of Appeals.

No public meeting comments were received on the Administrative Procedures Act Amendments and no further amendments to the Law are recommended at this time.

**Conclusion**

No public meeting comments were received on this item and it is recommended the Act be prepared to forward to the Oneida Business Committee for consideration of adoption.

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Fawn Billie, Councilmember  
Jennifer Webster, Councilmember  
David P. Jordan, Councilmember

## LEGISLATIVE OPERATING COMMITTEE

Public Meeting on the Comprehensive Policy Governing Boards Committees and Commissions  
Amendments, the Administrative Rulemaking Law, and the Administrative Procedures Act Amendments  
Business Committee Conference Room-2<sup>nd</sup> Floor  
Norbert Hill Center  
January 7, 2016 12:15 p.m.

**PRESENT:** Brandon Stevens, Jennifer Webster, Rae Skenandore, Matt Denny, Rhiannon Metoxen, Maureen Perkins, Tani Thurner, Douglass McIntyre and Krystal John.

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### Administrative Procedures Act Amendments

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**Brandon Stevens:** So anyways, if there is not any more questions...Rae.

**Rae Skenandore:** Okay, I apologize for not reading this in more detail ahead of time, I just want some clarification, under Rulemaking, sorry I have to backtrack on you...

**Brandon Stevens:** Alright, if there is not anymore comments and discussion I can close this meeting and remind that we have until the 17<sup>th</sup>?

**Krystal John:** No, the 14<sup>th</sup>.

**Brandon Stevens:** The 14<sup>th</sup>. Public comment period until the 14<sup>th</sup>, January 14<sup>th</sup>. Alright. Thank you.

## APA Emergency Amendments Extension

Analysis Draft 1 to Draft 3

<i>Analysis by the Legislative Reference Office</i>			
<b>Title</b>	Administrative Procedures Act (APA)		
<b>Drafter</b>	Lynn Franzmeier/Doug McIntyre	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	Ensure that Tribal boards, committees and commissions have hearing procedures that are noticed so a person is presented with a fair opportunity to file a claim that arises under Tribal law <i>[See 1.1-2]</i> .		
<b>Purpose</b>	The APA provides hearing procedures for boards, committees and commissions that do not have established hearing procedures in place <i>[See 1.1-1]</i> .		
<b>Authorized/ Affected Entities</b>	Tribal boards, committees and commissions that are authorized, by Tribal law, to conduct hearings; anyone bringing or defending an action before such a Tribal hearing body; anyone identified as a respondent; witness; and the Court of Appeals <i>[See 1.4-1, 1.1-1, 1.4-2, 1.4-3 (a), 1.5-5 (b) &amp; 1.6-2]</i>		
<b>Due Process</b>	A party can appeal a hearing body's decision to the Tribe's Court of Appeals <i>[See 1.6-2]</i>		
<b>Related Legislation</b>	The following are some Tribal laws and policies that reference the APA when describing how a hearing is conducted: All-Terrain Vehicle Law <i>[49.6-2]</i> ; Building Code <i>[66.24-1]</i> ; Condominium Ordinance <i>[68.26-2]</i> ; Oneida Nation Gaming Ordinance <i>[21.12-8 (g)]</i> ; Hunting, Fishing and Trapping Law <i>[45.15-3]</i> ; On-Site Waste Disposal Ordinance <i>[46.5-1 (a), (b)(2) &amp; (c)(2)]</i> ; Protection and Management of Archeological & Historical Resources <i>[12.5-3]</i> ; Real Property Law <i>[67.16-3 (a) (3)]</i> ; Oneida Vendor Licensing <i>[56.7-1]</i> ; Well-Abandonment Law <i>[43.7-3]</i> and Employee Protection Policy <i>[4-7]</i>		
<b>Policy Mechanism</b>	The hearing body can issue fines, orders and/or penalties so long as they comply with the Indian Civil Rights Act <i>[See 1.6-1]</i> .		

## Overview

The APA once housed the process for adopting Tribal legislation as well as the hearing procedures for Tribal boards, committees and commissions (hearing bodies) that have hearing authority, including the Oneida Appeals Commission. On January 7, 2013, the GTC 1) adopted the Legislative Procedures Act (LPA) which transferred the Tribal legislation process from the APA to the LPA and 2) adopted the Judiciary which repealed the hearing procedures for the Oneida Appeals Commission set forth in the APA effective March 1, 2015 *[See GTC Resolutions 01-07-13-A & 01-07-13-B]*. Because other Tribal laws reference the APA as a guide to be used for hearing procedures of various Tribal hearing bodies and because these Tribal hearing bodies continued to have hearing authority after the APA was set to expire, the Oneida Business Committee (OBC) adopted emergency amendments to the APA which provided a consistent process for these hearing bodies to conduct hearings. These emergency amendments became effective on March 1, 2015; were extended for six months and are set to expire on March 1, 2016.

The following amendments to the APA are currently in effect and are being considered for permanent adoption. These amendments:

- Require hearing bodies to follow the APA when conducting hearings unless another Tribal law establishes hearing procedures for the specific hearing body *[See 1.4-1]*. The APA will not pertain to the Oneida Personnel Commission, Oneida Police Commission or Oneida Election Board because Tribal law dictates how their hearings are conducted *[See Oneida Judiciary Rules of Civil Procedure 153.4-6, Oneida Nation Law Enforcement Ordinance 37.9-1 and Oneida Election Law 2.5-6]*. In addition, the APA

## APA Emergency Amendments Extension

Analysis Draft 1 to Draft 3

specifically excludes the Tribe's Judiciary and Family Court *[See 1.3-1 (f)]*.

- Allow hearing bodies to develop additional hearing body procedures so long as those procedures do not conflict with the APA and are noticed to the public *[See 1.4-1]*.
- Establishing procedural requirements for hearings, including:
  - Specifying what information must be included in the complaint as well as identify how a complaint and summons can be served and that service must be made within 30 days of filing the complaint *[See 1.4-2 & 1.4-3]*.
  - Authorizing hearing bodies to establish a regular time to hold pre-hearings and hearings as well as designate officer and alternates to serve on the hearing body *[See 1.5-1]*.
  - Restricting hearing officers and parties from engaging in ex parte communications *[See 1.5-2]*.
  - Specifying when evidence is used and how it can be obtained and presented, or objected to. *[See 1.5-3]*.
  - Require a pre-hearing to be conducted within 45 days after notice is served *[See 1.5-4]*. The pre-hearing allows the hearing body or hearing officer to determine dispositive motions; identify the need for witnesses and/or evidence; implement a scheduling order and address matters that will clarify, simplify or settle the case or facilitate a just, speedy and inexpensive disposition *[See 1.5-4]*.
  - Require a hearing, if necessary, to be conducted within 60 days after the pre-hearing or within 60 days after it is decided to not hold a pre-hearing *[See 1.5-6]*.
- Authorize the hearing bodies to issue fines, orders and/or penalties that comply with the Indian Civil Rights Act *[See 1.6-1]*.
- Allow a party to appeal the hearing body's decision to the Tribe's Court of Appeals in accordance with the Judiciary law and any applicable rules of procedure *[See 1.6-2]*.

### Considerations

The LOC may want to consider the following:

- Amendments require a pre-hearing to be conducted within 45 days after the notice is served as well as require a hearing be held, if necessary, within 60 days after the pre-hearing was conducted or the decision that a pre-hearing is not needed *[See 1.5-1 and 1.5-5]*. The amendments do not address allowing hearing bodies to extend these timelines. The LOC may want to consider whether or not to allow hearing bodies to extend the 45 day pre-hearing and/or 60 day hearing timelines if all parties agree, or in specific circumstances when additional time is necessary in the interests of justice.
- Amendments will allow the hearing body to issue fines, orders or penalties for those who violate the APA but there are no enforcement provisions for hearing bodies that violate this Law.
- The APA does not state whether or not a hearing body can issue subpoenas.

### Miscellaneous

A public meeting has not been held. Please refer to the fiscal impact statement for any financial impacts.

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## Chapter 1

### Administrative Procedures Act

1.1. Purpose and Policy  
1.2. Adoption, Amendment, Repeal  
1.3. Definitions

1.4. Complaints and Notice  
1.5. Procedures  
1.6. Judgments and Appeals

**1.1-1. Authority.** ~~The Oneida Tribe of Indians of Wisconsin has the authority and jurisdiction to enforce this act as well as the responsibility as a government to protect the health, safety, welfare, and economy of the Oneida Reservation lands and all persons who either reside on the reservation or who are visitors and/or are conducting business within the exterior boundaries of the reservation. The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution, as amended.~~

**1.2-1. Purpose.** ~~The Oneida Business Committee, various committees, entities and administrative bodies of the Oneida Tribe shall act in a responsible and consistent manner when enacting, approving, revising, reviewing, interpreting, implementing, and administering the laws, directions, rules, programs, and policies of the Oneida Tribe as adopted. The following principles shall be the framework of this Act:~~

- ~~(a) Fundamental fairness, justice, and common sense.~~
- ~~(b) Record keeping that is responsible, organized, accessible, and understandable.~~
- ~~(c) Deliberative bodies and decision makers which are familiar with the evidence and facts of the cases presented to them as well as issuing clear and concise written opinions; and~~
- ~~(d) Provisions for appeals of administrative errors and contested issues.~~

**1.3-1. Adoption, Amendment, Repeal**

~~(a) This law was adopted by the Oneida General Tribal Council by resolution GTC 8-19-91-A and amended by GTC 1-07-13-A.~~

~~(b) This law may be amended by the Oneida General Tribal Council.~~

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

~~(d) Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law. Specifically, the following are repealed:~~

~~(a) BC #7-5-95-K (Amendment to the Administrative Procedures Act to address public hearing process)~~

~~(b) BC# 2-2-88-A (Public hearing process for laws and policies)~~

~~(e) This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.~~

**1.4-1. Definitions.** ~~(a) "AGENCY": Any tribal entity, board, commission, committee, department, or officer authorized by the Oneida Tribe to propose ordinance/rules for adoption by the Oneida Business Committee or a decision maker for the contested cases. The term "Agency" shall not include the Oneida Business Committee or a tribal appeals body.~~

~~(b) "CONFIDENTIALITY": State or quality of being confidential; treated as private and not for publication.~~



~~(c) "CONTESTED CASES": A proceeding before an "Agency" in which an opportunity for a hearing before said "Agency" is required by law prior or subsequent to the determination of the "Agency" of the legal rights, duties, or privileges of specific parties unless otherwise provided for by tribal law. This shall include the revocation, suspension, or modification of a license or permit when a grant of such application is contested by a person directly affected by said licensing or permitting.~~

~~(d) "DECLARATORY RULING": A written ruling made by a tribal decision-making body which removes doubts or puts an end to conflicting decisions in regard to what law is in relation to a particular matter.~~

~~(e) "DELIBERATIVE BODY": A body that weighs, examines, and consults the reasons for and against a contemplated act or course of conduct or a choice of acts or means in order to form an opinion.~~

~~(f) "EMERGENCY": An unexpected or unforeseen occurrence or condition; a sudden or unexpected occasion for action; pressing necessity.~~

~~(g) "LICENSE" or "PERMIT": The approval, permission, or allowance of an individual or group to engage in an activity that is lawfully adopted by the Oneida Tribe.~~

~~(h) "LICENSING" or "PERMITTING": The process that refers to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license or permit.~~

~~(i) "ONEIDA BUSINESS COMMITTEE" (OBC): The representative body of the Oneida Tribe elected by the Oneida General Tribal Council pursuant to Article III of the Oneida Tribal Constitution.~~

~~(j) "ONEIDA GENERAL TRIBAL COUNCIL": The ultimate governing body of the Oneida Tribe composed of enrolled tribal members as described in Article III of the Oneida Tribal Constitution.~~

~~(k) "ORDINANCE": A tribal law that applies to and governs persons, activities, and properties subject to tribal jurisdiction.~~

~~(l) "RESERVATION": All land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.~~

~~(m) "RESERVATION ENVIRONMENT" or "RESERVATION RESOURCES": Land, surface water, ground water, fish, animals, flora, fauna, air, wildlife, and capital improvements on or near the reservation.~~

~~(n) "RULE/REGULATION": Any order or directive, or regulation of general applicability enacted into law and approved by the Oneida Business Committee that exhibits the following:~~

~~(1) The violation of which may result in a fine, penalty, or other civil administrative sanction;~~

~~(2) May establish, change, or revoke a procedure, practice, or requirement of administration hearing;~~

~~(3) May establish, change, or revoke requirements relating to benefits or privileges conferred by law;~~

~~(4) May establish, change, or revoke standards for assistance, suspension, or revocation of licenses;~~

~~(5) The amendment or repeal of a prior ordinance/rule;~~

~~(6) Does not include the following:~~

~~(A) statements concerning internal management of an area, nor:~~

~~(B) Declaratory rulings issued pursuant to this Act as now or hereafter amended.~~

~~(o) "SECRETARY": Secretary of the Oneida Business Committee.~~



~~(p) "SPONSORING AGENCIES": Any tribal agency that prepares an ordinance/rule or other matter under this Act for action by the Oneida Business Committee.~~

~~**1.5-1. Inspection of Agency Orders, Decisions, and Opinions** Each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases as well as an index to said cases, decisions, orders, or opinions except that said public inspection shall be limited by applicable federal law or tribal laws of confidentiality. In addition, said agencies shall forward all agency orders, decisions, or opinions to the "Secretary" who shall keep said records in one centralized area.~~

### **1.1. Purpose and Policy**

1.1-1. Purpose. The purpose of this Law is to provide procedures for boards, committees and commissions that conduct hearings for disputes arising under Tribal law and have no procedures in place under other Tribal law. This Law shall not apply to hearings held before the Family Court or any court of the Tribe's Judiciary. This Law shall not be construed to create hearing rights where no hearing rights exist under Tribal law

1.1-2. Policy. It is the policy of the Tribe that the hearing procedures of boards, committees and commissions shall be noticed to ensure all individuals are presented with a fair opportunity to file any claim that may arise under Tribal law.

### **1.2. Adoption, Amendment, Repeal**

1.2-1. This Law was adopted by the Oneida Business Committee by resolution BC \_\_\_\_\_.

1.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

1.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

1.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### **1.3. Definitions**

1.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Decision" shall mean the written conclusion of the hearing body concerning the facts, alleged violations of Tribal law and penalties.

(b) "Deliberations" shall mean the confidential process during which the hearing officers discuss the issues presented before the hearing body.

(c) "Dispositive motion" shall mean a request to the hearing body to entirely dispose of one (1) or more claims in favor of the party making the request without need for a further hearing.

(d) "Evidence" shall mean documentation or testimony presented to the hearing body which supports a party's claim.

(e) "Ex parte communication" shall mean oral or written, off-the-record communication made to or by the hearing officers without notice to the parties that is directed to the merits or outcome of the hearing.

(f) "Hearing body" shall mean the member or members of a board, committee or



commission that hear and decide the case or motions presented as part of a case.  
“Hearing body” shall not include the Family Court or any court of the Tribe’s Judiciary.  
(g) “Scheduling order” shall mean the hearing body’s order establishing the dates of the hearing and the deadlines for discovery and submitting witness lists.  
(h) “Summons” shall mean an order to appear before a hearing body because a petitioner has filed a complaint.

#### **1.4. Complaints and Notice**

1.4-1. Whenever a claim arises under Tribal law, a hearing body shall hear the complaint in accordance with the procedures established under this Law, unless another Tribal law has established hearing procedures for that specific hearing body. Nothing in this Law shall be construed to prevent a hearing body from establishing additional hearing body procedures, as long as those procedures do not conflict with this Law and are noticed to the public by the hearing body.

1.4-2. A petitioner(s) may file a complaint with the hearing body, the complaint shall include:

- (a) The name and contact information of each petitioner;
- (b) The name and contact information, if known, of the respondent(s)
- (c) The alleged violation that resulted in the complaint and the Tribal law that has been violated;
- (d) The date, time, place and description of the alleged violation;
- (e) The nature of the relief requested.

1.4-3. Notice. The complaint, along with a summons, shall be served upon the respondent(s) within thirty (30) days after the complaint is filed with the hearing body.

(a) The summons shall contain the date, time and place the respondent(s) is required to appear, along with a notice that failure to appear may result in a default judgment against him or her.

(b) Anyone who is not a party to the action and is at least eighteen (18) years of age may serve the notice. Notice shall be served in the following order of progression, unless personal service is more practical than by mail:

- (1) Mail with delivery confirmation, using U.S. mail or a private carrier.
- (2) Personal service, by hand delivering a copy of the complaint and summons to the party named in the complaint.
- (3) Publication, in the Kalihwisaks and another paper located in an area where the subject was last known to have resided. The publication shall be designated as a legal notice, stating the name and last-known address of the subject being located.

#### **1.5. Procedures**

1.5-1. Designated Hearing Dates. The hearing body may establish a regular time to hold pre-hearings and hearings. The hearing body shall designate officers and may designate alternates to serve on a hearing body.

1.5-2. Ex Parte Communications. Hearing officers and parties shall not engage in ex parte communications.

1.5-3. Evidence. A party shall include evidence as part of his/her original filings or obtain the evidence through discovery. A party may attempt to present the hearing body with evidence later in the proceedings if the opposing party does not object.

- (a) Copies. If a party submits documentation as evidence, the party shall present an original for the record and copies to each of the hearing officers and the opposing party.



187 (b) Objections. The opposing party may object to any evidence submitted.

188 (c) Acceptance into the record. The hearing body makes the final determination whether  
189 to accept evidence into the record. The hearing body may admit and consider evidence  
190 that is commonly accepted and has a direct connection to the case.

191 1.5-4. Pre-Hearings. Pre-hearings shall be conducted within forty-five (45) days after notice  
192 has been served. The purpose of a pre-hearing is for the hearing body or a hearing officer to:

193 (a) Hear and determine dispositive motions. The parties may present any dispositive  
194 motions and raise any issues that may affect the conduct of the hearing, including, but not  
195 limited to excluding evidence. If either party makes a dispositive motion:

196 (1) The party making the motion shall reference the applicable law and state with  
197 clarity why the hearing body should grant the motion. The party making the  
198 motion may present a proposed written decision for the hearing body to consider.

199 (2) The opposing party shall respond and state with clarity why the hearing body  
200 should not grant the motion. The opposing party may request an adjournment to  
201 prepare a written response to oral dispositive motions.

202 (3) The hearing body may ask any questions of the parties in order to clarify the  
203 issues.

204 (b) Identify the need for any witnesses and/or evidence.

205 (c) Implement a scheduling order.

206 (d) Address any matters which will assist in the clarification, simplification or settlement  
207 of the case or that may facilitate the just, speedy and inexpensive disposition of the  
208 matter.

209 1.5-5. Hearing Procedures. Within sixty (60) days after a pre-hearing is conducted, or within  
210 sixty (60) days after it has been determined that a pre-hearing will not be conducted, the hearing  
211 body shall conduct a hearing, if necessary. If a hearing is conducted, it shall substantially  
212 comply with the following:

213 (a) Opening Statements. Each party shall state with clarity why the hearing body should  
214 decide in his/her favor based on the facts and the laws presented.

215 (b) Witnesses. Each party may call any witness to testify.

216 (1) Each party shall be responsible for ensuring his or her witness(es) appears at  
217 the hearing.

218 (2) A witness(es) may rely only on evidence on record.

219 (3) A witness(es) is subject to cross examination by the opposing party.

220 (4) The hearing body may ask questions of any witness or request clarification of  
221 any documents during the proceeding.

222 (c) Rebuttal. Parties may present a witness(es) or introduce evidence that has not been  
223 previously presented in order to refute or rebut the opposing party's evidence or a witness  
224 statement.

225 (d) Closing Statements. Each party summarizes the evidence and the testimony he or she  
226 presented in order to rebut evidence or witness testimony presented by the opposing  
227 party.

228 (e) Deliberations. After the hearing, the hearing body shall schedule a time for  
229 deliberations. Deliberations are confidential and shall not be subject to reproduction and  
230 shall not be part of the case record. During deliberations, the hearing body shall place an  
231 emphasis on logic and reasoning in order to make sound decisions. The hearing body  
232 may adopt a proposed written decision and issue the decision during the hearing.

233 1.5-6. Decisions. The hearing body may issue an oral decision on a matter, but the decision  
234 shall not be final until the hearing body issues a written decision. The hearing body shall issue a



written decision within ten (10) business days after a pre-hearing or hearing. Should any party fail to appear at any scheduled pre-hearing or hearing or contest a complaint, the hearing body may issue a default judgment in favor of the opposing party.

(a) The decision shall include:

(1) Findings of fact and conclusions of law;

(2) Reference to specific provision of Tribal law violated;

(3) Disposition of any dispositive motions;

(4) In the case of a decision issued after a pre-hearing, a scheduling order if the hearing body does not grant a dispositive motion; and

(5) Reference to the parties' appeal rights.

(b) If the hearing body does not reach a unanimous decision, hearing officers may draft concurring and/or dissenting opinions.

(c) Notification to Parties. The hearing body shall ensure the final decision is sent to the parties via mail with delivery confirmation, using U.S. mail or a private carrier, within one (1) business day following the issuance of the decision. Time lines for an appeal are calculated based on receipt of the written decision.

## **1.6. Judgments and Appeals**

1.6-1. *Judgments* A hearing body, subsequent to a hearing, may issue fines, orders and/or penalties that comply with the Indian Civil Rights Act and may include, but not be limited to, the following:

(a) An order directing a violator or person in non-compliance of/with a Tribal law or regulation to pay a monetary fine for the violation, and/or actual damages and/or punitive damages.

(b) In the case of damages caused by minors, an order requiring the parent, custodian, or guardian to pay for damages and/or plan designed for restitution in lieu of monetary compensation to be fulfilled by the minor.

(c) An order directing the violator or non-complying person to cease and desist from further violation or non-compliance and to cure said violation within a specified period.

(d) An order requiring appropriate exclusion and/or mandated community service and/or denial of specific Tribal benefits.

(e) Unless precluded by law, informal disposition, signed by both parties, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(f) An order placing a lien upon property owned by a person within jurisdiction of the Tribe.

1.6-2. *Appeals* A party may appeal a decision of a hearing body to the Court of Appeals in accordance with the Judiciary law and any applicable rules of procedure.

End.



# Legislative Operating Committee

## February 3, 2016

# Community Support Fund

## Policy Amendments

**Submission Date:** 6/25/15

☒ Public Meeting: 10/29/15

☐ Emergency Enacted:

**LOC Sponsor:** David P. Jordan

**Summary:** *This item was brought forward to add language found in BC Resolution 12-11-13-D into the policy to clarify 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.*

- 7/1/15 LOC:** Motion by David P. Jordan to add the Community Support Fund Policy Amendments to the active files list; seconded by Tehassi Hill. Motion carried unanimously.
- 7/22/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Item deferred to the next regular Business Committee meeting.
- 8/12/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Item sent to a Business Committee special meeting agenda at the adjournment of the meeting.
- 8/17/15 OBC:** Direct LOC to make requested changes to the Community Support Fund. Motion by Jennifer Webster to direct the requested changes to the Community Support Fund Policy to the Legislative Operating Committee and for proposed changes due back to the September 23, 2015 regular Business Committee meeting, seconded by David Jordan. Motion carried with one opposed and one abstention.
- 9/2/15 LOC:** Motion by Jennifer Webster to forward the current draft of the Community Support Fund (Policy) for the required analyses; seconded by Fawn Billie. Motion carried unanimously.
- 9/16/15 LOC:** Motion by David P. Jordan to accept the update on the Community Support Fund Policy Amendments and forward to the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.
- 9/23/15 OBC:** Motion by David Jordan to accept the update from the Legislative Operating Committee regarding the status of the Community Support Fund amendments, seconded by Brandon Stevens. Motion carried unanimously.
- 10/7/15 LOC:** Motion by Jennifer Webster to forward the Community Support Fund Policy Amendments to a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by David P. Jordan. Motion carried unanimously.
- 10/29/15:** Public Meeting held.
- 11/18/15 LOC:** Motion by David P. Jordan to accept the public meeting comments regarding the Community Support Fund Policy Amendments and defer to a LOC work meeting to be held tentatively on December 4, 2015; seconded by Fawn Billie. Motion carried unanimously.

**12/4/15:** Work meeting held. Attendees include David P. Jordan, Brandon Stevens, Jennifer Webster, Danelle Wilson, Rhiannon Metoxen, Nicolas Reynolds, Trina Schuyler, Nancy Barton, Bradley Graham, Bill Graham, Cathy Metoxen, Candice Skenandore, Tani Thurner, Maureen Perkins, Douglass McIntyre.

**1/15/16:** Work Meeting Held. Attendees include David P. Jordan, Jennifer Webster, Fawn Billie, Tehassi Hill, Trina Schuyler, Nancy Barton, Bradley Graham, Bill Graham, Leyne Orosco, Cathy Metoxen, Douglass McIntyre.

**Next Steps:**

- Accept the draft and forward to the Legislative Reference Office for an updated analysis and to the Finance Department for a fiscal impact statement.

## Community Support Fund Policy

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Economic Support Services  
Responsibilities; Eligibility and Qualifications

Article V. Priorities for Consideration  
Article VI. Items Covered by the Fund  
Article VII. Items not Covered by the Fund  
Article VIII. Application Requirements  
Article IX. Appeal

### Article I. Purpose and Policy

1-1. *Purpose.* The purpose of this Policy is to assist the greatest number of Tribal members of the Oneida Tribe of Indians of Wisconsin who apply for assistance to the Community Support Services Fund in times of a Catastrophic event, illness, injury or emergency event when no other resources for assistance exist.

1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to assist their people in a time of need after a Catastrophic event, illness, injury or emergency event, when there is no other assistance available or all other assistance has been exhausted.

### Article II. Adoption, Amendment, Repeal

2-1. This Policy is adopted by the Oneida Business Committee by resolution # BC-5-15-96-A, amended by resolution # BC-01-08-97-G, BC-12-1-13-D and amended by resolution #BC-\_\_\_\_\_.

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

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

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

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

### Article III. Definitions

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

(a) "Applicant" means the subject of the application for assistance.

(b) "Business days" means Monday through Friday, ~~except those days recognized as 8:00 a.m. to 4:30 p.m., excluding Tribal~~ holidays ~~on the official calendar of the Tribe.~~

(c) "Case Manager" means a employee of the Economic Support Services Area responsible for administering Community Support Services Fund benefits.

(d) "Catastrophic event" means a natural or man-made incident, which results in substantial damage or loss requiring major financial resources to repair or recover (i.e. house fire, tornado, flood, or other disaster).

(e) "Catastrophic illness or injury" means a serious debilitating illness, injury, impairment, or physical or mental condition that involves:

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- (1) in-patient care; or
- (2) a period of continuing treatment due to a chronic serious health condition (such as chemotherapy/radiation, dialysis, daily/weekly therapy resulting from trauma, etc.); or
- (3) a period of illness or injury that is long-term due to a condition for which treatment may be ineffective (stroke, terminal disease, etc.); or
- (4) receipt of multiple treatments either for restorative surgery after an accident or other injury, or for a chronic condition. (i.e. cancer or kidney disease)

~~(f)~~ “(f) ‘Cost share’ shall mean the request to have the applicant agree to contribute to the cost of the assistance given.”

~~(g)~~ “(g) ‘Emergency event’ means a situation that poses an immediate risk to health, life, safety, property or environment. Emergencies require urgent intervention to prevent further illness, injury, death, or other worsening of the situation.”

~~(h)~~ “(h) ‘Emergency medical travel’ means an unexpected serious health situation or occurrence, requiring the immediate presence of immediate family. (i.e., end of life situation, life support, etc.)”

~~(i)~~ “(i) ‘Fund’ means the Community Support Services Fund as originally established under # BC 5-15-96-A.”

~~(j)~~ “(j) ‘Immediate family’ means that group of persons who make up a family unit normally defined as husband, wife, children, sister, brother, in-laws, step family, grandparents and grandchildren, and/or a person who has legal responsibility for a member of their immediate family the applicant.”

~~(k)~~ “(k) ‘Legal guardian’ means a person who has the legal authority to care for the personal and property interests of another person granted through Court order.”

~~(l)~~ “(l) ‘Legal responsibility’ means specific duties imposed upon a person to care or provide for another including liability for personal obligations as granted through a Power of Attorney or Court order.”

~~(m)~~ “(m) ‘Major medical surgery’ means a surgical procedure that carries a degree of risk to the patient’s life, or the potential for severe disability if something goes wrong during surgery. It is a surgical procedure that usually requires a patient to be put under general anesthesia and given respiratory assistance because he or she cannot breathe independently.”

~~(n)~~ “(n) ‘Severity’ means the verified rate or level of need.”

~~(o)~~ “(o) ‘Shelter’ means mortgage payments or rent payments.”

~~(p)~~ “(p) ‘Tribal’ or ‘Tribe’ means the Oneida Tribe of Indians of Wisconsin.”

~~(q)~~ “(q) ‘Verification’ means the evidence or proof that confirms the accuracy or truth of the alleged catastrophic event, illness, injury or emergency event and of Tribal membership (i.e., estimates, photographs, doctor statements/report, check stubs, tribal identification card/letter, etc.).”

#### Article IV. ~~Economic Support Services~~ Responsibilities; Eligibility and Qualifications

4-1. The ~~Economic Support~~Social Services Area of the Governmental Services Division shall ~~create and administer~~be responsible for administration of the Fund, but may designate the



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operation of the Fund to a Department within its control.

(a) The ~~Economic-Support~~Social Services Area or designee shall create standard operating procedures for the administration of the Fund. The standard operating procedures must include the list of categories the Fund covers and a cap that set the amount of assistance per event/ per household, except for funeral expenses which will be set per event/ per person.

(b) The Governmental Services Division Director shall report ~~semi-annually~~quarterly to the Oneida Business Committee. The report must include, the amount of funds paid out under each category.

(c) The ~~Economic-Support~~Social Services Area or designee shall ensure that the Tribal membership is informed of what assistance is available through the Fund, how to apply for assistance, and specify who is eligible for assistance.

4-2. Eligibility for assistance provided under the Fund is reserved for enrolled Tribal members. Applications may be made by a non-tribal member on the behalf of an enrolled Tribal member provided the requested funds will benefit the Tribal member only and the non-tribal member has one of the following relationships to the applicant:

- (a) is a non-Tribal parent of the applicant
- (b) is the Legal guardian of the applicant
- (c) has Legal responsibly for the applicant

4-3. Residency within the State of Wisconsin is not a prerequisite for assistance, except for requests for a security deposit in accordance with 6-2.

4-4. The Fund is a fund of last resort and provides assistance when there is no other financial assistance available or all other assistance has been exhausted. Applicants shall first seek out other resources that can meet the needs of their request. Proof of requesting assistance from other sources must be provided with the application.

(a) Applicants will be asked to cost share a percentage of the assistance being requested.

(b) Applicants whose household income is at or below one hundred and seventy-five percent (175%) of the the federal poverty guideline will be exempt from the obligation to cost share.

4-5. The following types of catastrophic events, illnesses or injuries qualify an applicant for assistance:

- (a) Terminally ill
- (b) Physically challenged or incapacitated
- (c) Major medical surgery
- (d) Life threatening (i.e. Cancer, AIDS, Stroke, disabling injuries due to motor vehicle accident, etc.)
- (e) Natural disaster (i.e. Tornado, fire, flood, etc.)
- (f) Death in immediate family

4-6. The Fund reserves the right to deny or limit benefits to applicants who have elected not to be covered by employer benefits such as disability or health insurance.

4-7. All payments must be provided directly to the service provider. However, payments awarded for funeral travel will be reimbursed to the applicant.

4-8. Assistance available under the Fund is subject to change according to fiscal year funding

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levels.

4-9. Tribal Programs and Enterprises are not eligible for these funds.

## **Article V. Priorities for Consideration**

5-1. The Case Manager shall determine the level of assistance to be provided based on:

- (a) Severity of event, illness, injury or emergency event
- (b) Cost (usual and customary fees)
- (c) Amount of time elapsed since catastrophic event, illness, injury or emergency event occurred
- (d) The Fund's appropriate standard operating procedures

5-2. The Case Manager shall assess each individual case, prioritize and assist with immediate needs. Priorities are as follows:

- (a) Life-threatening emergency requests
- (b) Emergency medical travel
- (c) Other needs

## **Article VI. Items Covered by the Fund**

6-1. Requests for assistance from the Fund must be tied to or be a result of a catastrophic event, illness, injury or emergency event. Upon verification of a catastrophic event, illness, injury or emergency event, the Fund may be used for the following:

- (a) COBRA Insurance Payments
- (b) Prescriptions not available through an IHS Clinic
- (c) Medical transportation/emergency medical travel including vehicle repairs
- (d) Medical-related equipment, supplies, or furniture, ~~but must use rental equipment, supplies, or furniture when available~~
- (e) Medical bills (dental, optical, hospital) not covered by insurance
- (f) Shelter and utilities where no other resources exist (including security deposits)
- (g) Utility disconnections
- (h) Inpatient Treatment (with a limit of once per lifetime)
- (i) Fire recovery/natural disaster assistance
- (j) Home renovations required for handicap accessibility ~~(if written authorization from the landlord)~~
- (k) Family Medical Leave Act Wage Replacement
- (l) Social Security Disability Determination ~~rent/utility assistance (with a maximum as determined by the Fund operators of twelve (12) months per lifetime)~~
- (m) Purchase of hearing aids

6-2. The Fund will only provide assistance for a security deposit will be tied to or be a result of, a catastrophic event, illness injury or emergency event and are limited to Tribal members who are Wisconsin residents only.

- (a) The Applicant shall demonstrate the ability to fulfill the terms of the rental lease. The Fund shall not co-sign any lease.
- (b) Security deposits are non-transferable and the amount paid for a security deposit must be paid back to the Fund Program before another security deposit is issued at any

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time in the future.

(c) Only one (1) request per household will be considered.

(d) Security deposits shall be issued on an emergency basis which shall include, but is not limited to, pending eviction and homelessness.

6-3. Assistance for the payment of utilities shall only be allowed once every two (2) years by the person listed as responsible to pay with the utility company.

6-4. Travel expenses to arrange or attend a funeral for immediate family members outside the State of where an applicant resides must be paid by the applicant first, and the Fund shall reimburse those applicants for mileage, ~~lodging~~, or airfare expenses up to a maximum amount of five hundred dollars (\$500).

## **Article VII. Items not Covered by the Fund**

7-1. The Fund does not cover payments that are not for a catastrophic event, illness, injury or emergency event as defined above. The following is a list of items not covered by the Fund; however, this is not an exhaustive list:

- (a) Car payments
- (b) Taxes
- (c) Credit card or Charge accounts
- (d) Commercial loans
- (e) Defaults/fines/bankruptcy charges
- (f) Expenses not tied to basic needs (Cable, internet, memberships, etc.)
- (g) Legal fees/court costs/judgments
- (h) ~~Appliance Repair/Replacement~~
- ~~(i)~~ Homeless lodging assistance
- ~~(j)~~ Stabilization rent assistance
- ~~(k)~~ Department of Correction re-entry assistance
- ~~(l)~~ Health membership fees
- ~~(j)~~ Food and personal care items

7-2. The Fund reserves the right to deny or limit benefits if evidence is found regarding the applicant as to the following:

- (a) The catastrophic event, illness, injury or emergency event is the result of a violation of the law as proven by a citation or criminal conviction.
- (b) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of other tribal programs, policies or laws (i.e. Zoning, etc.)
- (c) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of the Fund.

If the Fund chooses to approve, deny, or limit benefits n, an explanation of the decision must be in writing and provided to the applicant with a copy placed in the Fund's file.

## **Article VIII. Application Requirements**

8-1. To be considered for assistance and before receiving assistance the applicant must complete the full application process. All applicants shall cooperate with the Case Manager to assist the

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Case Manager in comprehensively addressing the needs of the applicant(s).

8-2. Supporting documentation is required in all cases. The applicant is responsible to provide all documentation requested by the Case Manager. No assistance may be provided without:

(a) sufficient documentation of the catastrophic event, illness, injury or emergency event as requested by the Case Manager.

(b) sufficient documentation that the applicant sought assistance from other agencies with an explanation of benefits received or refusal of assistance by the other agencies.

(c) sufficient documentation of enrollment in the Tribe

(d) sufficient documentation of all household income the last thirty (30) Business days immediately prior to the submission of the application.

(e) sufficient documentation of status of employment is required and includes the following documentation:

(1) Leave of absence paperwork

(2) Balance of personal and vacation time accumulation

(3) Disability insurance or workmen's compensation coverage

~~(4) Check stubs~~

8-3. Documentation includes, but is not limited to:

(a) Medical reports

(b) Bills or statements

(c) Estimates

(d) Letters

(e) Police or fire reports

(f) Obituary or formal notice of death

(g) Check stubs

(h) Pictures or photographs

(i) Applications for assistance from other agencies

(j) Approval of assistance or denial of assistance letters from other agencies

8-4. Requests submitted without supporting documentation must be kept on file for thirty (30) Business days.

(a) The Case Manager shall request additional information be provided when an application contains insufficient information to make an informed decision.

(b) Applicants may deliver, scan, fax, mail, or e-mail additional requested information.

(c) Failure to submit the requested information within the thirty (30) Business days will result in closing the application file, with no further action taken in regard to that application.

(d) Applicant must be sent a notice that the file has been closed and reason(s) for the file being closed.

(e) After the file is closed, the applicant must start the application process over again in order to be considered for assistance from the Fund. However, no applicant may re-apply for the same catastrophic event, illness, injury or emergency event more than the limit stated within this Policy or the Fund's standard operating procedures.

8-5. Application for assistance must be made within a reasonable time period, not to exceed thirty (30) Business days of a catastrophic event or illness, injury or emergency event.

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Applications made after thirty (30) Business Days will not be considered.

#### Article IX. Appeal

9-1. An appeal of the Case Manager's decision ~~shall~~must be ~~made~~requested in writing to the case manager within forty-eight (48) hours of notice of the decision . Within ten (10) business days of the appeal, the matter shall be reviewed by the Case Manager's supervisor to determine if the decision should be overturned or upheld.

9-2. If the supervisor upholds the decision, ~~it~~the applicant may then ~~be~~appealed to the Area Manager of the Social Services Division: by submitting a written request to the Area Managers office within forty-eight (48) hours of notice of the decision.

9-3. If the decision is upheld by the Area Manager, the decision may be appealed as a final decision to the Judiciary.

*End.*

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Adopted - BC-5-15-96-A

Amended - BC-1-8-97-G

Amended- BC-12-11-13-D



# Legislative Operating Committee

## February 3, 2016

# Mortgage and Foreclosure 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.

**12/16/15 LOC:** Motion by David P. Jordan to accept the memorandum update as FYI and to defer the Mortgage Law back to the sponsor and to bring back when ready; seconded by Fawn Billie. Motion carried unanimously.

### Next Steps:

- Review the draft of the Mortgage and Foreclosure Law and forward to the LRO for the required legislative analysis and to the Finance Department for the fiscal impact statement.

## Chapter 64 MORTGAGE AND FORECLOSURE

64.1.	Purpose and Policy.	64.6.	Default.
64.2.	Adoption, Amendment, Repeal.	64.7.	Agreement to Cure Default.
64.3.	Definitions.	64.8.	Foreclosure.
64.4.	Mortgage Programs.	64.9.	Appeal Rights.

### 64.1. Purpose and Policy.

64.1-1. *Purpose.* It is the purpose of this Law to set the standards and requirements for participation in the Mortgage programs and to prescribe the Foreclosure process required to be used in the event of a default of a Mortgage.

64.1-2. *Policy.* It is the policy of this Law to administer Mortgage programs aimed at maintaining and improving the standard of living for Tribal Members, while protecting Tribal assets and expanding the Tribal Land base.

### 64.2. Adoption, Amendment, Repeal.

64.2-1. This Law is adopted by the Oneida Business Committee by Resolution \_\_\_\_\_.

64.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

64.2-3. Should a provision of this Law or the application of 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.

64.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control.

64.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

### 64.3. Definitions.

64.3-1. This Section governs the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Abandoned" means the relinquishment of possession or control of a Mortgaged premises whether or not the Mortgagor or the Mortgagor's assigns have relinquished equity and Title to the Mortgaged interest.

(b) "Agreement to Cure Default" means a signed contract between a customer of a Mortgage program and the Division of Land Management on behalf of the Tribe whereby the parties agree upon a temporary payment schedule to allow the Mortgagor to cure a Default.

(c) "Appraisal" means the valuation of Real Property by the estimate of an authorized person.

(d) "Default" means a failure to comply with the payment terms of a Mortgage.

(e) "Foreclosure" means a legal proceeding initiated by the Tribe to terminate a Mortgagor's interest in Real Property, by taking possession of the Real Property as a partial or complete satisfaction of a Default.

(f) "Home Inspection" means an examination of a property's condition.

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

(h) “Mortgage” means a lien, held by the Tribe, on a Real Property interest that is given as security for the payment of a debt and/or the performance of a duty, including the Refinancing of an original conveyance, that will become void upon the payment and/or performance according to the stipulated terms.

(i) “Mortgagor” means the borrower in a Mortgage.

(j) “Notice of Default” means a formal and dated notice of Default.

(k) “Personal Property” means any property that does not fit the definition of Real Property and is generally movable.

(l) “Real Property” means land and anything growing on, attached to, or erected on the land, excluding anything that may be severed without injury to the land.

(m) “Redemption Period” means the timeframe during which a Defaulting Mortgagor may recover a Mortgaged interest that is the subject of a judgment of Foreclosure by paying the outstanding debt owed.

(n) “Refinance” means an exchange of an old debt for a new debt, as by renegotiating a different interest rate, term of the debt, or by repaying the existing loan with money acquired from a new loan.

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

(p) “Rules” means any set of requirements enacted by a Tribal entity pursuant to the Administrative Rulemaking Law.

(q) “Title” means legal evidence of person’s ownership rights in Real Property.

(r) “Title Report” means the written analysis of the status of Title to Real Property, including a property description, names of titleholders and how the Title is held, tax rate, encumbrances and any Real Property taxes due.

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

(t) “Tribal Land” means any land held in fee or trust status by the Tribe within the Reservation.

(u) “Tribal Member” means an enrolled member of the Oneida Tribe of Indians of Wisconsin.

#### **64.4. Mortgage Programs.**

64.4-1. *Available Mortgage Purposes.* Consistent with available funds, the Division of Land Management shall provide Mortgage programs for the following purposes and shall establish Rules naming said programs and providing the specific requirements for each program:

- (a) Financing the purchase or down payment of existing homes and lands;
- (b) Construction of new homes;
- (c) Repairs and improvements to existing homes;
- (d) Refinancing existing Mortgages.

64.4-2. *Mortgage Eligibility Requirements.* In order to be eligible for a Mortgage, applicants must meet the following conditions:

- (a) Be eighteen (18) years of age at the time of the application;
- (b) Be a Tribal Member(s);



(1) If the application is for joint applicants, at least one (1) applicant must be a Tribal Member.

(2) For married joint applicants, both spouses must be named applicants on the application and joint Mortgagors.

(c) Not have a discharged bankruptcy within two (2) years from the date of the application;

(d) Not be involved in a bankruptcy proceeding that has not yet been discharged at the time of the application; and

(e) Not have had a Mortgage Foreclosed upon within the seven (7) years from the date of the application.

64.4-3. *Mortgage Selection.* The Land Commission and the Division of Land Management shall jointly develop Rules governing the selection of applicants for the issuance of a Mortgage. At a minimum, the Mortgage selection Rules must require that the Mortgagor:

(a) Have an acceptable credit rating as defined in the Rules;

(b) Have an acceptable debt to income ratio as defined in the Rules;

(c) Have all delinquent debts owed to the Tribe paid in full prior to signing the Mortgage document;

(d) Have no more than the allowable amount of accumulated judgments, collections and/or profit and loss write-offs based on the Rules, and if any debts are being paid through a debt collector, the monthly payment must be listed as a monthly debt on the application;

(1) The Rules must provide the allowable timeframe, in relation to the date of selection, for applicants to resolve any judgments, collections and/or profit and loss write-offs within the allowable amount.

(2) Applicants failing to resolve said debts within the allowable timeframe become ineligible for the Mortgage.

64.4-4. *Mortgage Requirements.* The Land Commission and the Division of Land Management shall jointly develop Rules governing the requirements of Mortgages entered into by the Division of Land Management. At a minimum, the Mortgage requirement Rules must:

(a) Require the Mortgage document to identify the source of the ownership interest in the Real Property as attributable either to a deed or a residential lease entered into pursuant to the Leasing Law;

(b) Require the Real Property that is the subject of the Mortgage be insured under a Homeowner's Insurance Policy paid for by the Mortgagor and include enforcement provisions in the event of noncompliance herewith;

(c) Require that the Mortgage be the first or second secured interest on the Real Property;

(d) Require proof of clear Title, as defined by the Rules, prior to entering into a Mortgage;

(e) Establish which administrative fees, if any, that may be assessed in the Mortgage;

(f) Require that the Mortgage be for Real Property located within the Reservation;

(g) Require the Mortgage include interest at a rate provided in the Rules.

64.4-5. *Non-Tribal Member Spouses.* The following applies when one of the Mortgagors is a non-Tribal Member:

(a) Death of the Tribal Member Spouse. So long as the Mortgage is not Defaulted upon, the death of the Tribal Member spouse does not affect a Mortgage. If the non-Tribal

Member spouse defaults on the Mortgage, it will be subject to the regular Foreclosure proceedings as outlined in this Law.

(b) Refinancing due to Death or Divorce. In the event that a Mortgagor seeks Refinancing due to the death or divorce of a spouse, the Mortgagor must comply with the Refinancing Rules established pursuant to Section 64.4-1(d).

#### **64.6. Default.**

64.6-1. *Notice of Default.* The Mortgage Officer shall send a Notice of Default to Mortgagors by first class mail for each month for which he or she Defaults on the subject Mortgage, provided that the Notices of Default must be sent a minimum of thirty (30) calendars apart and contain the following information:

- (a) The notice number;
- (b) The dates of Default;
- (c) The amount of the Default;
- (d) The requirement to cure to the Default, including important dates affecting the Mortgagor's rights;
- (e) The Mortgagor's available options to cure a Default; and
- (f) The actions that may be taken by the Tribe if the Default is not timely cured.

#### **64.7. Agreement to Cure Default.**

64.7-1. *Entering into an Agreement to Cure Default.* The Division of Land Management may, in its full discretion, work with Mortgagors able to pay a Mortgage Default over time to enter into an Agreement to Cure Default over a reasonable time not to exceed one (1) year.

(a) A Mortgagor may enter into one (1) Agreement to Cure Default per twelve (12) month period. A Mortgagor may request more than one (1) Agreement to the Cure Default in a twelve (12) month period if the Mortgagor is able to demonstrate the additional agreement is necessary due to extenuating circumstances faced by the Mortgagor, provided that, any such additional agreements must be approved by the Director of the Division of Land Management.

(b) The Division of Land Management may not permit Mortgagors to increase payroll deduction payments to cure a Default without first entering into an Agreement to Cure Default.

(c) In the event a Mortgagor violates the terms of an Agreement to Cure Default, the Division of Land Management shall enforce the remedies afforded the Tribe in the Agreement to Cure Default and may not amend the terms of an unsatisfied Agreement to Cure Default without the approval of the Director of the Division of Land Management.

64.7-2. *Elements of an Agreement to Cure Default.* All Agreements to Cure Default entered into by the Division of Land Management must contain the following elements:

- (a) The effective date of the agreement;
- (b) The parties to the agreement;
- (c) The amount of payments under the Mortgage and any Agreements to Cure Default previously entered into;
- (d) A statement that the Mortgage and, if applicable, any previous Agreement to Cure Default are in Default;
- (e) The amount of the increased payments under the agreement;

- (f) The terms of the agreement, including the remedies available to the Tribe in the event the Mortgagor violates the terms of the agreement; and
- (g) Notice that a failure to follow the terms of the agreement may result in the immediate filing of a Foreclosure.

**64.8. Foreclosure.**

64.8-1. *Decision to Foreclose.* Any Mortgage that is in Default for two (2) consecutive months may be subject to Foreclosure, provided that a Notice of Default requirement in Section 64.6-1 must have been satisfied.

(a) After the two (2) Notices of Default have been sent, the Division of Land Management shall determine whether initiating Foreclosure proceedings would be in the best interest of the Tribe, provided that it must follow Foreclosure determination standard operating procedure approved by the Director of the Division of Land Management and the Land Commission.

(1) Should the Division of Land Management determine that initiating a Foreclosure is in the best interest of the Tribe, it shall submit a complaint to the Judiciary in compliance with Tribal law and the Judiciary's requirements. The complaint may not be submitted until after thirty (30) days from the date of the second Notice of Default.

(2) The Division of Land Management shall include in all Complaints a demand judgement for any deficiency that may remain due to the Tribe after the Tribe's reclamation of Title against every party who is personally liable for the debt secured by the Mortgage that is the subject of the Foreclosure.

64.8-2. *Mortgage Satisfaction or Agreement to Cure Default Prior to Judgment of Foreclosure.* If the Mortgagor satisfies the Mortgage that is the subject of a Foreclosure Complaint or the parties reach an Agreement to Cure Default prior to the Judiciary's entering of a Judgment of Foreclosure, the Judiciary shall dismiss the Foreclosure Complaint.

(a) *Mortgage Satisfaction.* A Mortgagor named in a Foreclosure Complaint may satisfy the subject Mortgage at any time prior to the Judiciary's entering of a Judgment of Foreclosure. Under such circumstances, the Mortgagor shall submit to the Judiciary proof of payment in full of the Mortgage principal, any interest owed and any court costs incurred by the Tribe. Upon receipt of verified proof of satisfaction, the Judiciary shall dismiss the Foreclosure Complaint based on satisfaction of the Mortgage.

(b) *Agreement to Cure Default.* Should the Tribe and the Mortgagor reach an Agreement to Cure Default in accordance with Section 64.7 after Foreclosure proceedings have been initiated, which may include provisions requiring the Mortgagor to reimburse the Tribe for any court costs incurred, the Mortgagor shall submit to the Judiciary a copy of the executed Agreement to Cure Default. Upon receipt of an executed Agreement to Cure Default, the Judiciary shall dismiss the Foreclosure Complaint without prejudice based on the Agreement to Cure Default.

64.8-3. *Judgment of Foreclosure.* If the Judiciary finds in favor of the Tribe, it shall issue a judgement of Foreclosure. At a minimum a judgment of Foreclosure must include the following:

- (a) A description of the Mortgaged premises;
- (b) The amount of the Mortgage debt due;
- (c) The Mortgagor's Redemption Period;

(d) An order to vacate the Mortgaged premises within thirty (30) calendar days of the judgment;

(e) An order transferring Title of the Mortgaged premises to the Tribe as partial or full payment of the amount of Mortgage debt then due; and

(f) So long as the Tribe's Complaint reserves the right to demand a judgment of deficiency for costs that may remain due after the transfer of Title to the Tribe pursuant to Foreclosure, an order recognizing the Tribe's reserved right, which may include sums advanced by the Tribe for insurance, necessary repairs, inspections costs, appraisal fees and other costs;

(g) An order that within seven (7) months of receipt of a judgment of Foreclosure, the Tribe submit either a motion demanding a judgment of deficiency or a motion to enforce the judgment of Foreclosure, each of which must include a final accounting and a confirmation of appraisal.

64.8-4. *Redemption Period.* The Judiciary shall afford all Mortgagor's subject to a judgment of Foreclosure a Redemption Period. To redeem a Real Property interest the Mortgagor shall pay the full amount of the Mortgage debt due and any costs incurred by the Tribe for insurance, necessary repairs, inspection costs, appraisal fees and other costs.

(a) *Occupied Premises.* The Redemption Period for occupied premises must be six (6) months. Absent an affirmative finding of Abandonment, the Judiciary shall presume that premises are occupied premises.

(b) *Abandoned Premises.* The Redemption Period for Abandoned premises must be a minimum of five (5) weeks, provided that a Redemption Period based on Abandoned premises requires an affirmative finding of Abandonment by the Judiciary based on evidence submitted by the Division of Land Management on behalf of the Tribe.

(1) In determining whether the Mortgaged premises have been Abandoned, the Judiciary shall consider the totality of the circumstances, including the following:

(A) Boarded, closed or damaged windows or doors to the premises;

(B) Missing, unhinged or continuously unlocked doors to the premises;

(C) Terminated utility accounts for the premises;

(D) Accumulation of trash or debris on the premises;

(E) At least two (2) reports to law enforcement officials of trespassing, vandalism, or other illegal acts being committed on the premises when the Mortgagor is not present; and

(F) Conditions that make the premises unsafe or unsanitary or that make the premises in imminent danger of becoming unsafe or unsanitary.

(2) The Division of Land Management may include testimony from a representative of the city, town, village or county where the Mortgaged premise is located as part of its evidence of Abandonment.

(c) *Redeemed Premises.* Should the Mortgagor successfully redeem the Mortgaged interest that is the subject of a judgment of Foreclosure, the Tribe shall issue the Mortgagor a certificate of redemption. Upon receipt of a certificate of redemption, the Mortgagor shall file a motion to vacate the judgment of Foreclosure with the Judiciary. Upon receipt from the Judiciary, the Mortgagor shall duly record the order to vacate the judgment of Foreclosure with the Oneida Nation Register of Deeds.

64.8-5. *Mortgage Holder's Responsibilities upon Receipt of a Judgment of Foreclosure.*  
Upon receipt of a judgment of Foreclosure, the Division of Land Management, on behalf of the Tribe as the Mortgage holder, shall:

(a) Secure and take possession of the Real Property once the timeframe in the order to vacate has expired.

(1) The Division of Land Management shall provide the Mortgagor notice of when the property's locks are scheduled to be changed, provided that such notice must include the following:

(A) The property address;

(B) The date and time the locks are scheduled to be changed;

(C) Notice to Mortgagor that an Oneida Police Officer will be present while the locks are being changed;

(D) Information on how the disposition of Personal Property will be managed based on Section 64.8-4(a)(3);

(E) The contact information for Division of Land Management staff the Mortgagor may contact in regards to the property; and

(F) A copy of the judgment of Foreclosure.

(2) The Division of Land Management shall contact the Oneida Police Department to request that an Oneida Police Officer be on the scene while the locks are being changed.

(3) In the event the Mortgagor has left Personal Property in the home, he or she may retrieve the said Personal Property by contacting the Division of Land Management staff listed on the work order. The Division of Land Management is required to hold Personal Property for a minimum of five (5) business days.

(A) The Division of Land Management shall keep a written log of the date and the work time Tribal staff expends storing and/or removing Personal Property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(B) The Division of Land Management and the Land Commission shall jointly create Rules further governing the disposition of Personal Property.

(b) Order a Title Report from the Land Title and Trust Department with specific instructions to contact the Tribe's Accounting Department to check whether the Mortgagor owes any outstanding debts to the Tribe and based on the Title Report shall:

(1) Seek payment of outstanding water bills and/or other liens or charges appearing on the tax rolls from the Mortgager. In the event of a failure to pay, the Tribe shall make payment and include such costs in the Tribe's final accounting required by the judgment of Foreclosure and as explained in Section 64.8-5(e);

(2) Request proof of payment of any judgments noted on the Title Report which can be attached to the Real Property;

(3) Request proof of satisfaction of any mortgage liens issued by an outside financial institution other than the Tribe, provided that, said mortgage liens may not be satisfied by the Tribe until the Redemption Period has either expired or been terminated by the Judiciary.

(c) Order an Appraisal of the Real Property to be completed;

(d) Order a Home Inspection, including a well and septic inspection, of the Real Property to be completed and based on the findings of the Home Inspection shall coordinate which repairs will be completed.

(1) In order for repair costs to be included in a judgment of deficiency 64.8-3(f), the Tribe must include the following in its demand for the said judgment:

(A) A record of all receipts for materials and invoices for services related to the said repairs;

(B) A record all hours expended by Tribal staff related to the said repairs; and

(C) Photographic evidence demonstrating the condition of the Real Property both before and after the repairs were made.

(2) If based on the Home Inspection, the Division of Land Management determines it to be in the best interest of the Tribe to raze a Foreclosed upon property, it may do so in accordance with the Rules which the Division of Land Management and the Land Commission shall jointly develop. Any costs related to the razing of a property may be included in the Tribe's demand for a judgment of deficiency.

(e) Wrap up the Foreclosure by filing with the Judiciary either a motion demanding a judgment of deficiency or a motion for enforcement of the judgment of Foreclosure.

(1) Demand for a Judgment of Deficiency. The Tribe shall file a demand for a judgment of deficiency if the total of the amount of the Mortgage debt due in the judgment of Foreclosure and the sums advanced by the Tribe for insurance, necessary repairs, inspections costs, appraisal fees and other costs exceeds the value of the Real Property based on the Appraisal. A demand for a judgment of deficiency must include a confirmation of Appraisal and an accounting of all sums advanced by the Tribe.

(2) Motion for Enforcement of the Judgment of Foreclosure. The Tribe shall file a motion for enforcement of the judgment of Foreclosure if the total of the amount of the Mortgage debt due in the judgment of Foreclosure and the sums advanced by the Tribe for insurance, necessary repairs, inspections costs, appraisal fees and other costs are less than or equal to the value of the Real Property based on the Appraisal. If the total of the amount of the Mortgage debt due in the judgment of Foreclosure and the sums advanced by the Tribe for insurance, necessary repairs, inspections costs, appraisal fees and other costs are less than the value of the Real Property based on the Appraisal, the Division of Land Management shall include in the motion to enforce a copy of the signed apron issued to the Mortgagor providing the refunded amount.

64.8-6. *Resale following Foreclosure.* The Division of Land Management may begin advertising a Foreclosed upon property for re-sale immediately following its receipt of an order to enforce the judgment of Foreclosure, provided that it may not complete a sale of the said property until the Mortgagor's appeal rights have expired.

#### **64.9. Appeal Rights.**

64.9-1. *Decisions of Land Management are Final.* All decisions made by the Division of Land Management in regards to the Mortgage programs provided under this Law are final decisions and are not subject to appeal.

355 64.9-2. *Appeal of a Foreclosure.* A Mortgagor whose Real Property has been Foreclosed upon  
356 may appeal a determination made by the Judiciary in accordance with the Judiciary [Law] and  
357 the Rules of Appellate Procedure.

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Adopted BC-



# Legislative Operating Committee

## February 3, 2016

### Per Capita Law Amendments

**Submission Date:** 7/10/2015

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** David P. Jordan

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

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

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

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

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

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

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

- **Next Steps:** Select the language that the LOC would prefer in the highlighted section 9.5-5, accept the legislative analysis with an update based on the language selected, and direct the LRO to prepare for a public meeting to be held on March 17, 2016.





Analysis Draft # 2 to Draft 9

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Per Capita (Law) Amendments				
<b>Requester</b>	Trust Department	<b>Drafter</b>	Krystal L. John	<b>Analyst</b>	Maureen Perkins
<b>Reason for Request</b>	To 1) clarify minor and majority age beneficiary references as they relate to deferrals and hardships; 2) make changes in frequency of form requirements and in Elder distributions; 3) incorporate fees for stop payments and closed bank accounts and 4) review how resolutions BC-01-28-04-A and BC-11-06-02 are affected by the proposed changes and original intent, as they apply to the Law.				
<b>Purpose</b>	The purpose of this Law is to specify the procedures to be followed in the event that per capita payments are distributed by the Tribe and to clearly state the responsibilities of the various Tribal entities in the distribution or maintenance of any such per capita payments <i>[See 9.1-1]</i> .				
<b>Authorized/ Affected Entities</b>	Oneida Business Committee, Trust/Enrollment Committee, Trust Department, Enrollment Department, Judiciary, Oneida Accounting Department, Oneida Nation Child Support Agency, Tribal Entities				
<b>Due Process</b>	Any Tribal member or guardian of a Tribal member can appeal a decision regarding a per capita payment and/or distribution <i>[See 9.8]</i> or an attachment <i>[See 9.4-6(d)(1)(A)]</i> to the Judiciary.				
<b>Related Legislation</b>	Per Capita Trust Agreement, Tribal Revenue Allocation Plan, Child Support Law and Accompanying Rules, Memorandum of Agreement, Judiciary				
<b>Policy Mechanism</b>	Attachments may be ordered by the Judiciary for child support arrears, debt owed to a Tribal Entity that is past due, or a federal tax levy <i>[See 9.4-6(a)]</i> . Debt owed to a Tribal Entity includes any money owed and any fines that have been issued by the Tribal Entity <i>[See 9.4-6(a)(2)(A)]</i> . The Judiciary may order attachments against per capita payments of Tribal Members who have not returned a notarized membership payment form or who refuse a per capita payment <i>[See 9-4.6(e)]</i> . All fees associated with reissuing a distribution must be applied to the distribution unless it is an error on the Tribe's behalf <i>[See 9.5-2(b)(1)(A) and (B)]</i> .				
<b>Enforcement</b>	Per capita payments may only be issued at the direction of the General Tribal Council through adoption of a resolution <i>[See 9.4-3]</i> .				

### Overview

The proposed Per Capita Law amendments were requested by the Trust Department to reduce the frequency of per capita distributions to elders while still maintaining the elders payments by placing elders on the same distribution schedule as adults, reduce the processing of adult per capita payments by eliminating the submission of the notarized form for adult members who have direct deposit on file with the Enrollment Department, create the majority age beneficiary category distinct from minor beneficiary, and establish bank fees for closed accounts and returned distributions. Additional amendments include: merges Trust and Enrollment

Departments into one Trust/Enrollment Department, recognizes the Trust/Enrollment Committee (the current Law recognizes the Trust Committee), and eliminates the role of the Trust/Enrollment Committee to hold administrative hearings.

**Analysis was requested regarding the following resolutions:**

▪ **BC Resolution 11-06-02-A**

- This resolution amended the Per Capita Ordinance to create a separate per capita payment schedule for elders who turn 62 and 65 in a distribution year. The amendments added age 65 to the definition of elder in the Per Capita Ordinance. The resolution also established that elders who turn 62 or 65 by December 31<sup>st</sup> were to receive the respective elders' per capita payment for that September 30<sup>th</sup> distribution year. Those who turn 62 or 65 after September 30<sup>th</sup> were to receive their respective first time elder per capita payment in the month following their birth date. This establishes that there are additional elders payments sent after September 30<sup>th</sup> of a distribution year for those who are turning 62 and 65 after September 30 of that distribution year.
  - The proposed amendments still honor December 31<sup>st</sup> as the cut off for elders who reach the age determined by the GTC resolution in the distribution year that takes place on September 30<sup>th</sup>. These distributions; however, will occur on September 30<sup>th</sup> along with all adult distributions. Elders who reach age categories established by the GTC resolution between October 1<sup>st</sup> and December 31<sup>st</sup> will receive their elders' payments early on September 30<sup>th</sup> of that distribution year.
  - BC Resolution 11-06-02-A conflicts with the proposed amendments in that there is not a separate schedule for elders' payments in the proposed Law as established by this resolution. Elders are classified as adults in the definition and therefore follow the adult distribution timeline.
    - Adult is defined as a Tribal Member who is at least eighteen (18) years of age on or before September 1<sup>st</sup> of a given year [See 9.3-1(a)].

	<b>BC Resolution 11-06-02-A</b>	<b>Current Law</b>	<b>Proposed Amendments</b>
definition	Elder: shall mean those tribal members who are age 62 years or over, or 65 years or over, as of December 31 of a given year	(e) "Elder" shall mean those Tribal members who are age 62 years or over, or 65 years or over, as of December 31st of a given year.	9.3-1 "Adult" means a Tribal Member who is at least eighteen (18) years of age on or before September 1 <sup>st</sup> of a given year 9.7-2(1) For the purposes of this Section, elder means a Tribal Member who meets the age requirements as of December 31st of a given year to be eligible for an elder Distribution as determined by the effective General Tribal Council Resolution.

## Analysis Draft # 2 to Draft 9

	<b>BC Resolution 11-06-02-A</b>	<b>Current Law</b>	<b>Proposed Amendments</b>
Payments / Distributions	(c) Payments Sent. Per capita payments shall be mailed on September 30 <sup>th</sup> . 1) After September 30, and through December 31, first time elder per capita payments shall be sent in the month following birth date.	5.5-3(d) (d) Annual Payments. Annual per capita payments shall be distributed on or before September 30th. First time elder per capita payments for those Tribal members who turn sixty-two (62) or sixty-five (65) after September 30th, and through December 31st, shall be distributed at the end of the month of the elder's birth date.  (e) (1) Prior Payments: Elders. Prior payments requested by eligible elders on or before the twentieth (20th) day of the month shall be distributed by the last business day of that month. Prior payments requested by elders after the twentieth (20th) day of the month shall be distributed by the last business day of the next month.	9.5-2 (c) Annual Distribution Date. All annual Per Capita Payments, excluding those to Minor Beneficiary Trust Accounts, which are governed by the Per Capita Trust Agreement, must be Distributed on or before September 30th.

- **Impact.** BC Resolution 11-06-02-A conflicts with the proposed amendments.

- **Recommendation:**

- Repeal BC Resolution 11-06-02-A considering that elders will still receive their elders' payments in the distribution year according to the proposed Per Capita Law Amendments.

- **Special BC Resolution 1-28-04-A**

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

### **Proposed Amendments**

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

- **Distinction of Majority Age and Minor Beneficiaries.** Two terms have been added to create clarity in the Law: majority age beneficiaries and minor beneficiaries.
  - **Proposed Amendments to the Law.** The proposed amendments to the law define the new terms as follows:
    - Majority age beneficiaries: a Tribal Member who has reached eighteen (18) years of age by September 1 and is eligible to claim a trust account

- for the first time in the distribution year *[See 9.3-1(l)]*.
- Minor beneficiaries are defined as Tribal Members who are less than eighteen (18) years of age *[See 9.3-1(m)]*.
  - **Per Capita Trust Agreement.** The Per Capita Trust Agreement refers only to “Beneficiaries” defined as:
    - The beneficiaries of the trust shall be all duly enrolled members of the Oneida Tribe of Indians of Wisconsin who are eligible to receive a Per Capita Distribution in any year in which any such Distribution is made, and who have not yet attained the age of eighteen years by September 1<sup>st</sup> of the year in which such Distribution is made *[See Article I. Beneficiaries of the Per Capita Trust Agreement]*.
    - **Impact.** The amendment to the terms has no legislative impact or conflict.
  - **Administrative Hearings.** The role of the Trust/Enrollment Committee to hold administrative hearings regarding challenges to payment or non-payment of per capita payments has been removed from this Law *[See 9.4-4 of current law]*. Disputes are now settled by the Judiciary.
    - **Proposed Amendments to the Law.** The proposed amendments to the law state, “Any Tribal member or guardian of a Tribal member can appeal a decision regarding a per capita payment and/or distribution to the Judiciary” *[See 9.8]*.
    - **Per Capita Trust Agreement.** The Per Capita Trust Agreement States, “If any dispute arises out of the distribution of a beneficiary’s interest under the Trust, all such matters shall be resolved according to the procedures set forth in the Oneida Administrative Procedures Act, except as otherwise provided in the Oneida Tribe of Indians of Wisconsin Revenue Allocation Plan *[See Article XV of the Per Capita Trust Agreement]*.”
    - **Impact.** Article XV of the Per Capita Trust Agreement would need to be updated to refer disputes to the Judiciary.
  - **Membership Distribution Forms.** The current law requires each adult Tribal member to return a notarized membership payment form by the close of business on September 1<sup>st</sup> in order to be eligible for the per capita payment *[See 9.5-3(b) of current law]*.
    - **Proposed Amendments to the Law.** Tribal Members who have submitted a direct deposit form are no longer required to submit the notarized membership payment form each year unless there is a change to the direct deposit information. The direct deposit information can be updated until the deadline of September 1 to apply to the per capita payment that year *[See 9.5-2(b)(1)(A)]*.
    - **Impact.** The modification to the membership distribution form process creates no legislative impact or conflict.
  - **Bank Fees.** The current law is silent with respect to bank fees.
    - **Proposed Amendments to the Law.** All fees associated with reissuing a distribution [due to incorrect direct deposit information] must be applied to the distribution unless it is an error on the Tribe’s behalf *[See 9.5-2(b)(1)(B)]*.
    - **Impact.** The incorporation of bank fees creates no legislative impact or conflict.
  - **Elders Payments.** The separate process for elder’s distributions was removed from this Law. Elder’s distributions now follow the same process and adhere to the same deadlines

as the adult distributions [See 9.5], except for those elders who reach the age category established by the GTC resolution between October 1 and December 31 of the distribution year, who will receive their elders' payments early on September 30 (implied intent). This change conflicts with BC Resolution 11-06-02-A which sets the distribution timeline for elders reaching 62 and 65 by December 31<sup>st</sup> of the distribution year.

- **Impact.** BC Resolution 11-06-02-A would need to be repealed to accommodate the proposed amendments as noted in the analysis of the resolution above.
- **Pooled Account.** The pooled account [9.5-5] has option A and option B (amended option) and it is requested that the LOC make a policy decision regarding which option is used in the Law.
  - Language in option A creates an obligation for the Trust/Enrollment Committee to hold the unclaimed per capita payments in reserve until the rights of the Tribal Member to the unclaimed Per capita payments has expired, at which time the funds are deposited into the pooled account. This language is consistent with the current Law which states "Any unclaimed funds held in reserve for such claims shall be deposited in a pooled account to be used for a purpose designated by the General Tribal Council" [See 9.5-6 of current Law].
    - Option A: 9.5-5. *Pooled Account.* Funds must be held in reserve for unclaimed Per Capita Payments until the Tribal Members' rights to the said unclaimed Per Capita Payments have expired. Once the right has expired, the funds held in reserve must be deposited in a Pooled Account, which is managed by the Trust/Enrollment Committee, to be used for a purpose designated by the General Tribal Council.
      - (a) *Expiration of Unclaimed Per Capita Payments.* Tribal Members' rights to unclaimed Per Capita Payments expire upon the occurrence of any one (1) of the following:
        - (1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);
        - (2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;
        - (3) An Adult becomes deceased prior to a Distribution date; or
        - (4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).
  - Language in option B amends the Law because it is silent regarding the obligation for the Trust/Enrollment Committee to hold unclaimed per capita payments in reserve and only states that unclaimed per capita payments that have expired are deposited into the pooled account.
    - Option B: 9.5-5. *Pooled Account.* Pooled Account Funds are managed by the Trust/Enrollment Committee, to be used for a purpose designated by General Tribal Council. The Pooled account funds result from the following.
      - (a) *Expiration of Unclaimed Per Capita Payments.* Tribal Members'

rights to unclaimed Per Capita Payments expire upon the occurrence of any one (1) of the following:

(1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);

(2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;

(3) An Adult becomes deceased prior to a Distribution date; or

(4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).

- **Impact.** Either option does not create a legislative impact or conflict. Option B is silent with respect to the obligation for the Trust/Enrollment Committee to hold unclaimed per capita in reserve.

- **Fraudulent Use of Diploma.** The fraudulent proof of diploma clause and associated fines and penalties under the disbursement of major age beneficiaries has been removed from this Law [9.6-1(d)].

- **Impact.** Removing the fraudulent use of diploma clause has no legislative impact or conflict

- **Minors with Learning Disabilities and Legally Incompetent Minors.** The exception for beneficiaries with learning disabilities and legally incompetent minors to present a certificate of attendance for 12 years of school in lieu of a high school diploma has been removed from this Law [See 9.6-1(d)(1)].

- This exception still remains within the Per Capita Trust Agreement.

- Minors declared legally incompetent, and minors who have a learning disability or other disability are excepted from the diploma requirement. ...Minors with a disability providing a certificate of twelve (12) years of school attendance will be treated as high school graduates [See Article III A. (2) of the Per Capita Trust Fund Agreement].

- **Impact.** There is no legislative impact or conflict. Much of the detail contained in the Per Capita Trust Agreement has been eliminated from the Law with the understanding that the Law recognizes the Per Capita Trust Agreement.

- **Appeal Process.** A process to appeal to the Judiciary was added to this Law [See 9.8].

- **Impact.** The appeal process would need to be updated in the Per Capita Trust Agreement as it currently refers to the Administrative Procedures Act and the Revenue Allocation Plan to settle disputes [See Article XV of the Per Capita Trust Agreement].

### Miscellaneous

A public meeting has not yet been held. Minor language changes have been made to improve the clarity without affecting the content. Revisions have been made to comply with drafting styles. Please refer to the fiscal impact statement for any financial impacts.

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## Chapter 9 PER CAPITA

### Shakotiwí? Stawihé Olihwa'ke

Issues concerning where they give the money

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9.7. Payments

#### 9.1. Purpose and Policy

9.1-1. *Purpose.* The ~~Purpose~~purpose of this ~~law~~Law is:

(a) To specify the procedure to be followed in the event that per capita payments are ~~issued~~distributed by the Tribe; and

(b) To clearly state the responsibilities of the various Tribal entities in the distribution or maintenance of any such per capita payments.

9.1-2. *Policy.* It is the ~~Policy~~policy of the ~~Oneida~~ Tribe ~~of Indians of Wisconsin~~ to have a consistent methodology for ~~issuance~~distribution of per capita payments, including payments derived from Gaming Revenues and regulated by ~~the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.~~IGRA.

#### 9.2. Adoption, Amendment, Repeal

9.2-1. This ~~law~~Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D- ~~and~~ \_\_\_\_\_.

9.2-2. This ~~law~~Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

9.2-3. 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.

9.2-4. In the event of a conflict between a provision of this ~~law~~Law and a provision of another law, the provisions of this ~~law~~shallLaw control.

9.2-5. This ~~law~~Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

#### 9.3. Definitions

9.3-1. This section ~~shall govern~~governs the definitions of words and phrases as used herein. All words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

(a)– “Adult” ~~shall mean those~~means a Tribal ~~members~~Member who ~~are~~is at least eighteen (18) years ~~old~~of age on or before September 1<sup>st</sup> of a given year.

(b)– “Arrears” ~~shall mean~~means the amount of money a ~~person~~Tribal Member has not paid pursuant to the most recent child support court order against him or her.

(c)– “Court of competent jurisdiction” ~~shall mean~~means the ~~Tribe's~~ judicial



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35 ~~system~~ Judiciary, a state or federal court or another court which has ~~recognized by the~~  
36 Judiciary as having the jurisdiction to hear and determine a particular legal proceeding.  
37 (d) ~~“Day” shall mean~~ means calendar days, unless otherwise specifically stated.  
38 (e) ~~“Elder” shall mean those Tribal members who are age 62 years or over, or 65 years~~  
39 ~~or over, as of December 31st of a given year.~~  
40 (f) ~~(e) “Direct Deposit” means the electronic distribution of per capita funds.~~  
41 (f) “Distribution” means the transfer of per capita funds to Tribal Members.  
42 (g) “IGRA” means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.  
43 (h) “Judiciary” means the Tribe’s judicial system, which includes the Family Court, Trial  
44 Court and/or Appellate Court.  
45 (i) ~~“Legally incompetent adult” shall mean~~ Incompetent Adult” means a Tribal  
46 ~~member~~ Member who is at least eighteen (18) years ~~old who~~ of age and has been declared  
47 incompetent by a court of competent jurisdiction ~~because he or she is temporarily or~~  
48 ~~permanently impaired to the extent that the person lacks sufficient understanding~~ pursuant  
49 ~~to make or communicate responsible personal decisions~~ applicable law.  
50 (g) ~~“Minor” shall mean~~ (j) “Majority Age Beneficiary” means a Tribal  
51 ~~member~~ Member who has ~~not yet~~ reached ~~the age of~~ eighteen (18) years of age by  
52 September 1<sup>st</sup> ~~of a given year.~~  
53 (h) ~~“Minors and is eligible to claim a trust” shall mean that account or those accounts~~  
54 ~~established by the Trust Committee for the benefit of Tribal members who are minors~~ first  
55 time in the distribution year.  
56 (i) ~~k~~ “Minor Beneficiary” means a Tribal Member who is less than eighteen (18) years  
57 age.  
58 (l) “Per Capita Payment” means the amount authorized by the General Tribal Council to  
59 be distributed to Tribal Members.  
60 (m) “Pooled Account” means the account set up by the General Tribal Council or Oneida  
61 Business Committee, through resolution, for the purpose of managing undistributed per  
62 capita funds pursuant to Tribal law.  
63 (n) ~~“Tribal” or “Tribe” shall mean~~ means the Oneida Tribe of Indians of Wisconsin.  
64 (j) ~~o~~ “Tribal entity” shall mean Entity” means a department, board, committee, or  
65 commission of the Tribe or the Judiciary.  
66 (k) ~~p~~ “Tribal Member” means an individual who is an enrolled member of the Tribe.  
67 (q) “Trust Account” means an account” shall mean that account or those accounts(s)  
68 established by the Trust/Enrollment Committee for the benefit of Tribal members who  
69 are identified as needing trust accounts, purpose of maintaining Per Capita funds for  
70 example, minors persons pursuant to the Tribal revenue allocation plan, which includes,  
71 but is not limited to, Minor Beneficiaries and legally incompetent adults Legally  
72 Incompetent Adults.  
73 (l) ~~r~~ “Trust/Enrollment Committee” shall mean means that body designated by the  
74 General Tribal Council to manage the trust funds for the ~~Oneida~~ Tribe on behalf of  
75 ~~Indians of Wisconsin and their Tribal membership~~ members, and which is also  
76 responsible for the enrollment records of the ~~Oneida~~ Tribe. ~~This Committee is also~~  
77 known as



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(s) “Trust Fund Accountant” means the ~~Oneida~~ third party professionals hired by the Trust/Enrollment Committee to oversee Trust Accounts established pursuant to this Law.

#### 9.4. General

9.4-1. This ~~section shall set~~ Section sets forth the responsibilities delegated under this ~~law~~ Law.

9.4-2. *Supersedes.* This ~~law shall supersede~~ Law supersedes any contradictory language ~~contained~~ in any other ~~per capita payment~~ Per Capita Payment plan.

9.4-3. *Budgetary Limitations.* This ~~law shall~~ Law may not be construed as mandating a ~~per capita payment.~~ Per capita payments shall Capita Payment; Per Capita Payments may only be issued ~~only~~ at the direction of the General Tribal Council through adoption of a resolution.

9.4-4. ~~Oneida~~ Trust/Enrollment Committee. The Trust/Enrollment Committee shall ~~be~~ delegated the following responsibilities in regards to per capita activities. Any:

(a) Manage Trust Accounts related to Per Capita Payments with fiduciary responsibility not specifically identified, and reasonably related to the activities identified herein, shall be considered a Trust Committee responsibility.;

(a) ~~Fiduciary responsibility to manage trust accounts related to per capita payments.~~

(b) ~~Maintenance of~~ Maintain the Tribe's membership rolls ~~in such a manner as to so that~~ the Trust/Enrollment Department can accurately identify ~~to whom per capita payments~~ will be made.

(e) ~~Holding administrative hearings regarding challenges to payment or non-payment of per capita payments.~~

(d) ~~Development of which~~ Tribal Allocation Plans necessary to make per capita payments. Members are eligible for Distribution;

(d) Develop Tribal revenue allocation plans required by Tribal laws, policies or rules in order to Distribute Per Capita Payments, provided that said plans must be approved by the Oneida Business Committee;

(e) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this sub-section; and

(f) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Oneida Business Committee.

9.4-5. *Oneida Business Committee.* The Oneida Business Committee shall ~~be identified as~~ having the following responsibilities regarding per capita activities. Actions reasonably related to activities defined herein, shall be considered an Oneida Business Committee activity.;

(a) ~~Identification of~~ Identify and allocate funds ~~for allocation for per capita payments.~~

(b) ~~Approval of Tribal Allocation Plan and forwarding the Tribal Allocation Plan available for approval by~~ Per Capita Payments;

(b) Forward approved Tribal revenue allocation plans to the Bureau of Indian Affairs.;

(c) ~~Transfer of funds for to~~ the ~~trust account to the Trust Committee in a timely manner~~ and appropriate Tribal Entity(ies) pursuant to Tribal law within a reasonable time frame.;

(d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this in this sub-section; and

(e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Trust/Enrollment Committee.



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9.4-6. *Attachments.* Per ~~capita payments~~ Capita Payments are considered benefits offered by the Tribe to ~~the membership.~~ Tribal Members. All ~~per capita payments~~ Per Capita Payments, except ~~payments~~ Distributions to or from a ~~trust account~~ Trust Account for a Minor Beneficiary, are subject to attachment prior to ~~distribution~~ Distribution in accordance with this ~~section~~ Section and shall follow the timelines established by the Trust/Enrollment Committee.

(a) Per ~~capita~~ Capita Payment attachments may only be ordered by the ~~Tribe's judicial system~~ Judiciary for the following purposes, and in the following order:

(1) Child support ~~arrears~~ Arrears ordered by a ~~court~~ Court of competent jurisdiction. After child support Arrears are fully satisfied, any remaining Per Capita Payments must be used for the payment of debt owed to a Tribal Entity.

(A) If a Tribal Member owes Arrears in more than one (1) child support order, the per capita must be equally divided based on the number of court orders under which Arrears are owed.

(2) Debt owed to a Tribal ~~entity~~ Entity that is past due. After child support Arrears and debt owed to a Tribal Entity have been fully satisfied, any remaining Per Capita Payment must be used for the payment of a federal tax levy.

(A) "Debt owed to a Tribal entity" includes any money owed to a Tribal entity and any fines that have been issued by a Tribal entity.

(B) If a Tribal Member owes debt to more than one (1) Tribal Entity, the per capita shall be equally divided based on the number of Entities that are owed debt.

(3) A federal tax levy.

~~(b) After child support arrears are fully satisfied, any remaining per capita shall be used for the payment of debt owed to a Tribal entity.~~

~~(1) If a Tribal member owes arrears in more than one (1) child support order, the per capita shall be equally divided based on the number of court orders under which arrears are owed.~~

~~(2) If a Tribal member owes debt to more than one (1) Tribal entity, the per capita shall be equally divided based on the number of entities that are owed debt.~~

(b) If the amount of the Per Capita Payment exceeds the amount of the attachment, the remaining balance must be Distributed to the Tribal Member, provided the Tribal Member has met the Distribution requirements contained in this Law. If there is a remaining unclaimed balance, said balance must remain available as identified in 9.5-5 and may be requested to be Distributed as provided in 9.5-2(e)(1). If there is a remaining refused balance, it must be deposited in accordance with 9.5-5.

~~(c) After child support arrears and debt owed to a Tribal entity have been fully satisfied, any remaining per capita shall be used for the payment of a federal tax levy.~~

~~(d) Child Support Attachments.~~ All requests for attachments for child support ~~arrears~~ shall Arrears must be submitted to the ~~Oneida Nation Tribe's~~ Oneida Nation Tribe's Child Support Agency. The claimant or a representative ~~of the entity~~ designated to receive the ~~arrears~~ Arrears may request the attachment.

~~(1) Attachment requests for child support arrears shall be made before July 1<sup>st</sup> to~~



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~~attach the annual per capita payment. Attachment requests for child support arrears for all other payments shall be made far enough in advance for the requirements of this law to be met and the order of determination on the attachment of the payment from the Tribe's judicial system to be received by the Enrollment Department at least thirty (30) days before the payment date.~~

~~(2)~~(1) After receiving an initial attachment request for child support arrears~~Arrears~~, the Oneida Nation~~Tribe's~~ Child Support Agency shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal ~~members~~Members whose ~~per capita payment~~Per Capita Payment will be attached for child support ~~arrears~~Arrears.

~~(A) When subsequent requests for attachment are received, the Oneida Nation Child Support Agency shall proceed in accordance with 9.4-6(d)(5).~~

~~(3) The one-time notice shall inform the Tribal member of the following:~~

~~(A) A request to attach the Tribal member's per capita payment for child support arrears has been received;~~

~~(B) He or she has ten (10) business days from receipt of the notice to return the completed voluntary federal income tax withholding request form if he or she wants federal income tax withheld from the per capita payment before the attachment is applied; and~~

~~(C) The Tribal member's future per capita payments will be attached, upon request from a claimant or a representative of the entity designated to receive the arrears, until the child support arrears are satisfied.~~

~~(4) A Tribal member whose per capita payment will be attached for child support arrears has until ten (10) business days after receiving the one-time notice of attachment to submit a request to the Oneida Nation Child Support Agency that federal income tax be withheld from his or her per capita payment.~~

~~(A) A request received to withhold federal income tax shall remain in effect until the child support arrears have been satisfied or the Tribal member provides written notice to the Oneida Nation Child Support Agency stating otherwise, whichever occurs first.~~

~~(B) Without a request to withhold federal income tax from the per capita payment as required under this law, federal income tax shall not be withheld from the current or future per capita payments that are attached for child support arrears unless the Tribal member provides written notice to the Oneida Nation Child Support Agency stating otherwise.~~

~~(C) A request to change a Tribal member's voluntary federal income tax withholding status that is received before July 1<sup>st</sup> shall be applied to that year's annual per capita payment. Requests to change a Tribal member's voluntary federal income tax withholding status received on or after July 1<sup>st</sup> shall be applied to the next per capita payment made, whether it is an annual or prior payment.~~

~~(5) The Oneida Nation~~(2) The Tribe's Child Support Agency shall prepare a



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certified accounting of all attachment requests and forward the accounting to the Tribe's judicial system. ~~If the attachment request is for the annual per capita payment, the certified accounting shall be forwarded to the Tribe's judicial system before July 31<sup>st</sup> of the year in which the payment is scheduled to be made.~~Judiciary.

(6) ~~The Tribe's judicial system shall issue an order of determination and forward it.~~3) In order to attach a Tribal Member's Per Capita Payment to collect child support Arrears, the Trust/Enrollment Department:

(A) ~~before August 1<sup>st</sup> for action in~~ must receive an order of determination from the next processed annual per capita payment; or Judiciary.

(B) ~~at least thirty (30) days before the payment date for action in the next processed prior payment distribution.~~

~~(7)~~(4) After the child support ~~arrears~~Arrears have been satisfied, if an attachment request is submitted for the same Tribal ~~member's per capita~~Member's Per Capita Payment based on new child support ~~arrears~~Arrears, the ~~Oneida Nation~~Tribe's Child Support Agency shall issue another one-time notice and federal income tax withholding form in accordance with 9.4-6(d)~~(2) above.~~1).

~~(ed)~~ Tribal Debt and Federal Tax Levy Attachments. All requests for attachments for debt owed to a Tribal ~~entity~~Entity after receiving a judgment from a Court of competent jurisdiction or to the federal government for a federal tax levy ~~shall~~must be submitted to the ~~Tribe's judicial system.~~Judiciary. The claimant or a representative ~~of the entity~~ designated to receive the claim may request the attachment.

~~(1) Attachment requests for debt owed to a Tribal entity or to the federal government for a federal tax levy shall be made before July 1<sup>st</sup> to attach the annual per capita payment. Attachment requests for debt owed to a Tribal entity or to the federal government for a federal tax levy for all other payments shall be made far enough in advance for the requirements of this law to be met and the order of determination on the attachment of the payment from the Tribe's judicial system to be received by the Enrollment Department at least thirty (30) days before the payment date.~~

~~(2) A Tribal member whose annual per capita payment will be attached for Tribal debt or a federal tax levy has until September 1<sup>st</sup> to request federal income tax be withheld from his or her per capita payment. A Tribal member whose prior per capita payment will be attached for Tribal debt or a federal tax levy has until the order of determination on the attachment of the payment from the Tribe's judicial system is issued to request federal income tax be withheld from his or her per capita payment.~~

~~(3) The Tribe's judicial system~~(1) Upon recognizing a need to attach a Tribal Member's Per Capita Payment to collect a Tribal debt, the Tribal Entity shall send a one-time notice and a voluntary federal income tax withholding request form to said Tribal Members; the one time notice must be sent by first class U.S. mail to the last known address of the party.

(A) Tribal Members subject to attachment to collect a debt owed to the



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Judiciary who wish to appeal the attachment may file a request for a show cause hearing during which the Tribal Member may present evidence to show that the Judiciary's accounting of the debt owed by the Tribal Member is inaccurate or unfounded. The Judiciary shall honor all requests for show cause hearings received within ten (10) business days from the date of the one-time notice of attachment.

(2) If attaching for Tribal debt, the Tribal Entity shall ~~issue~~prepare a certified accounting of all attachment requests and forward the accounting to the Judiciary.

(3) In order to attach a Tribal Member's Per Capita Payment to collect a Tribal debt or a federal tax levy, the Trust/Enrollment Department must receive an order of determination and forward it to the Enrollment Department from the Judiciary.

(A) before August 1<sup>st</sup> for action in the next processed annual per capita payment; or

(B) at least thirty (30) days before the payment date for action in the next processed prior payment distribution.

(f)(e) The Tribe's judicial system Judiciary may order attachments against per capita payments Per Capita Payments of Tribal members Members who do not return a notarized membership payment form as required under 9.5-32(b)(1) or who refuse a payment under 9.5-32(f). If the amount of the per capita payment Per Capita Payment exceeds the amount of the attachment, the remaining unclaimed balance shall must remain available as identified in 9.5-3(e)5 and the remaining refused balance shall must be deposited in accordance with 9.5-3(f)(2)-5.

#### 9.4-7. Federal Income Tax Withholding.

(a) Voluntary. If a voluntary The Trust/Enrollment Department shall withhold federal income tax withholding taxes from a Distribution only when the following applies:

(1) Tribal Member's whose Per Capita Payment is not subject to attachment in accordance with Section 9.4-6 may voluntarily request form has been received under 9.4-6(d)(4) or 9.4-6(e)(2), to have federal income tax shall be withheld from per capita payments withheld, provided that such requests must be received in accordance with the applicable distribution dates.

(2) Tribal Member's whose Per Capita Payment is subject to attachment in accordance with Section 9.4-6 may voluntarily request to have federal income tax withheld, provided that such requests must be received in accordance with the deadlines established by the Tribal Entity pursuing the attachment. Federal income tax withholding requests that are timely received must be applied to the applicable Distribution before any attachments are applied.

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

(c) Federal income tax withholding, whether voluntary or mandatory, shall be applied to the per capita amount before any attachments are applied.



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~~(d)–IRS Publication 15a. In instances where federal income tax is withheld from a per capita payment, The Tribe shall comply with~~ the most recent edition of IRS Publication 15a ~~shall be complied with.~~

## 9.5. Distributions

9.5-1. General. This section sets forth the required processes for Distribution of Per Capita Payments.

~~9.5-1. General. This section shall set forth the processes to follow when a per capita payment is issued.~~

~~9.5-2. Trust Committee. The Trust Committee is responsible for the protection and preservation of per capita payment funds for minors. As part of that responsibility, the Trust Committee is responsible for the completion and issuance of any necessary reports to the minors. The Trust Committee shall develop standard reporting procedures which establish valuation dates, frequency of reports and identify data critical to the completion of reports. Such reporting responsibilities may be delegated to duly selected vendors.~~

~~9.5-3. Deadlines. The following deadlines shall apply in regards to the annual per capita payment.~~ Per Capita Payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline ~~shall be~~ is construed to be the close of business on the following business day. For any additional ~~per capita payments~~ Per Capita Payments, the Trust/Enrollment Committee may establish dates and deadlines associated with those payments, as needed.

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

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

~~(2A)~~ Enrollment Deadlines. An individual is considered enrolled for the purposes of a ~~per capita payment~~ Per Capita Payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by March 31<sup>st</sup>.

~~(3B)~~ A newly enrolled Tribal Member is eligible only for Per Capita Payments authorized to be Distributed following the effective date of his or her enrollment; he or she is not eligible to receive any Per Capita Payments that were Distributed prior to the effective date of his or her enrollment.

(2) Dual Enrollment. A ~~member~~ Tribal Member who is dually enrolled with the Tribe and another Indian ~~Tribetribes~~ tribe is not eligible for a ~~per capita payment~~ Per Capita Payment unless his or her relinquishment from the other tribe has been processed and written verification that the member is no longer enrolled with that tribe has been received by the Trust/Enrollment Department by September 1<sup>st</sup>.

(b) Membership Payment Distribution Documents.

(1) Adult Distribution Form.—The and Instructions.

(A) Prior to July 1st of the year the Trust/Enrollment Department shall mail membership payment Membership Distribution forms no later than



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July 1<sup>st</sup>. Each adult Tribal member and instructions to those who do not have a Direct Deposit record on file with the Trust/Enrollment Department.

(i) Adults shall complete, notarize and return a notarized membership—payment Membership Distribution form to the Trust/Enrollment Department by close of business on or before September 1<sup>st</sup> in order to be eligible for a per capita payment Per Capita Distribution.

(e) (B) Prior to July 1st of the year the Trust/Enrollment Department shall mail receipts to those who have a Direct Deposit record on file with the Trust/Enrollment Department. Adults receiving the receipts are not required to submit a Membership Distribution form unless an Adult wishes to remove his or her Direct Deposit record.

(i) An Adult wishing to remove his or her Direct Deposit record must complete, notarize and return all applicable forms to the Trust/Enrollment Department by close of business on or before the Distribution Form deadline.

(C) The Trust/Enrollment Department shall make available late Membership Distribution forms. The acceptance of these forms must comply with section 9.5-2(e).

(2) Majority Age Beneficiary Distribution Form and Instructions.

(A) Prior to April 1<sup>st</sup> of the year the Trust/Enrollment Department shall mail Trust Account forms and instructions to eligible Majority Age Beneficiaries for Trust Account Distributions.

(B) The Trust/Enrollment Department shall make available late Trust Account forms. The acceptance of these forms must be processed in accordance with Article III of the Per Capita Trust Agreement.

(c) Annual Distribution Date. All annual Per Capita Payments, excluding those to Minor Beneficiary Trust Accounts, which are governed by the Per Capita Trust Agreement, must be Distributed on or before September 30<sup>th</sup>.

(d) Direct Deposit. Adults and Majority Age Beneficiaries may submit a Direct Deposit form at any time. All Direct Deposit forms must be received by the applicable Per Capita or Trust Account Distribution Form deadline in order to be applied to a Distribution.

(1) Any fees associated with reissuing a Distribution must be deducted from the reissued Distribution. (Fees may include, but are not limited to, stop payment and Direct Deposit bank rejection fees).

(2) The Tribe shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Tribe's behalf may not count against the Tribal Member as identified in 9.5-2 (e)(2)(A).

(e) Request for a Prior Per Capita Payment.

(1) Unclaimed Payment. A Tribal Members must submit a request for a prior payment Adult Per Capita Payment, for which a member the Tribal Member was eligible, but did was not claim, shall be filed claimed or fully attached, by



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September 1<sup>st</sup> of the next year. For example, if a payment's original ~~distribution~~Distribution date is in 2000, then the deadline is September 1, 2001. If a request is not received by the deadline date, the payment will expire and the funds ~~shall~~must be deposited in a ~~pooled account~~Pooled Account in accordance with 9.5-65.

(A) Prior Per Capita Payments requested by an eligible Adult must be distributed as follows:

(i) By March 31st, if the late Membership payment form is received after September 1<sup>st</sup>, but on or before March 1<sup>st</sup>.

(ii) By September 30th, if the late Membership payment form is received after March 1st, but on or before September 1<sup>st</sup>.

(B) Prior Per Capita Payments requested by a Majority Age Beneficiary must be distributed in accordance with Article III of the Per Capita Trust Agreement.

(2) ~~Un-cashed Payment.~~ A Distribution of Unredeemed Checks. Tribal Members must submit a request for ~~a~~an Adult or Majority Age Beneficiary's prior ~~payment~~Distribution, for which a ~~member~~Tribal Member already claimed, but did not redeem, ~~shall be filed~~ by September 1<sup>st</sup> of the next year. For example, if a ~~payment's~~Distribution's original ~~distribution~~issue date is in 2000, then the deadline is September 1, 2001.

~~(A-payment)~~ An Adult, Beneficiary or Majority Age Beneficiary's Distribution may only be reissued once. After the ~~payment~~Distribution is reissued the ~~member~~Tribal Member has ninety (90) days to redeem it or the ~~payment~~Distribution will expire and ~~will~~may not be reissued. ~~The Expired~~ funds ~~shall then~~must be deposited in a ~~pooled account~~Pooled Account in accordance with 9.5-65.

~~(d) Annual Payments.~~ Annual per capita payments shall be distributed on or before September 30<sup>th</sup>. First time elder per capita payments for those Tribal members who turn sixty two (62) or sixty five (65) after September 30th, and through December 31<sup>st</sup>, shall be distributed at the end of the month of the elder's birth date.

~~(e) Prior Payments.~~

~~(1) Prior Payments: Elders.~~ Prior payments requested by eligible elders on or before the twentieth (20<sup>th</sup>) day of the month shall be distributed by the last business day of that month. Prior payments requested by elders after the twentieth (20<sup>th</sup>) day of the month shall be distributed by the last business day of the next month.

~~(2) Prior Payments: Non-Elders.~~ Prior payments requested by eligible Tribal members who are not elders shall be distributed as follows:

~~(A) By March 31<sup>st</sup>, if the prior payment request is received after September 1<sup>st</sup>, but on or before March 1<sup>st</sup>.~~

~~(B) By September 30<sup>th</sup>, if the prior payment request is received after March 1<sup>st</sup>, but on or before September 1<sup>st</sup>.~~

(B) Any fees associated with reissuing a Distribution must be deducted



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from the reissued Distribution. (Fees may include but are not limited to stop payment and Direct Deposit bank rejection fees).

(i) The Tribe shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Tribe's behalf may not count against the Tribal Member as identified in 9.5-2(e)(2)(A).

(f) *Refusal of Payments.* ~~A Tribal member~~ Distributions. An Adult or Majority Age Beneficiary may refuse any ~~per capita payment~~ Distribution due to him or her, including a ~~trust account payment~~ Trust Account Distribution, by completing a refusal form developed by the ~~available with Trust~~ Enrollment Department. However, if the ~~Tribe's judicial system~~ Judiciary has approved ~~the~~ an attachment of ~~the Tribal member's payment~~ an Adult Distribution, only the remaining portion of the ~~per capita payment~~ Distribution, if any, may be refused. Majority Age Beneficiary Distributions are not attachable.

(1) Upon submitting the refusal form to the Trust/Enrollment Department, the ~~Tribal member~~ Adult or Majority Age Beneficiary irrevocably waives his or her right to the specific ~~payment~~ Distribution as indicated on the form.-

~~(2)(2)~~ Refusal forms must be received by the Distribution deadline.

(3) A refused ~~payment shall~~ Distribution must be deposited in a ~~pooled account~~ Pooled Account in accordance with 9.5-65.

9.5-3. ~~9.5-4.~~ *Deceased Members.* ~~A Tribal member shall be considered~~ An Adult or Minor Beneficiary is ineligible to receive a ~~per capita payment~~ Distribution if his or her date of death occurs on or before the ~~payment distribution~~ Distribution date.

(a) The estate of a deceased ~~Tribal member~~ Adult may not submit a membership ~~payment~~ Distribution form on behalf of the deceased to claim a ~~per capita payment~~ Distribution.

(b) A deceased ~~Tribal member's per capita payment shall~~ Adult's Distribution must be deposited in a ~~pooled account~~ Pooled Account in accordance with 9.5-6.

9.5.

9.5-4. ~~5.~~ *Adult Relinquishment.* ~~A Tribal member~~ An Adult is ineligible for any ~~current~~ future or prior ~~per capita payments~~ Per Capita Payment Distributions as of the date his or her Tribal ~~membership~~ Membership is relinquished. Funds set aside for a former ~~Tribal member's per capita payment shall~~ Adult's Distribution must be deposited in a ~~pooled account~~ Pooled Account in accordance with 9.5-6.

9.5-6. *Pooled Account.* ~~Upon failure to file a request for a prior payment or trust account funds within the time provided under this law, the member's eligibility for the prior payment or trust account funds shall expire. Any unclaimed funds~~ 5.

Option A: 9.5-5. Pooled Account. Funds must be held in reserve for ~~such claims shall~~ unclaimed Per Capita Payments until the Tribal Members' rights to the said unclaimed Per Capita Payments have expired. Once the right has expired, the funds held in reserve must be deposited in a ~~pooled account~~ Pooled Account, which is managed by the Trust/Enrollment Committee, to be used for a purpose designated by the General Tribal Council. ~~Management of the pooled account shall be the responsibility of the Trust Committee.~~



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

- (1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);
- (2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;
- (3) An Adult becomes deceased prior to a Distribution date; or
- (4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).

Option B: 9.5-5. Pooled Account. Pooled Account Funds are managed by the Trust/Enrollment Committee, to be used for a purposed designated by General Tribal Council. The Pooled account funds result from the following.

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

- (1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);
- (2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;
- (3) An Adult becomes deceased prior to a Distribution date; or
- (4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).

## **9.6. Minor Beneficiaries and Legally Incompetent Adults**

9.6-1 ~~General~~ Minor Beneficiaries. This ~~section shall set~~ Section sets forth a consistent method to protect and preserve the interests of ~~minors and legally incompetent adults in any per capita payment to which they may be entitled. If a per capita payment includes minors and/or legally incompetent adults as eligible recipients, those per capita payments shall be deposited into a trust account~~ Minor Beneficiaries in any Distribution to which a Minor Beneficiary may be eligible. All Distributions to Minor Beneficiaries are governed by this Law, IGRA and the Per Capita Trust Agreement.

(a) The Trust/Enrollment Committee. The Trust/Enrollment Committee shall establish a standard operating procedure, which ~~shall~~ must identify the set-up ~~and~~ and monitoring and distribution of the ~~trust accounts~~ Trust Accounts. The Trust/Enrollment Committee may choose to maintain pooled or individual accounts, separate accounts for each ~~payment~~ Distribution or series of ~~payments~~ Distributions, or any other combination which is in the interests of the ~~recipients~~ beneficiaries and which is consistent with the terms of the Minor's Per Capita Trust Agreement and the Trust/Enrollment Committee's Investment Policy.

(1) The Trust/Enrollment Committee is responsible for the protection and preservation of Per Capita Payment funds for Minor Beneficiaries. As part of that responsibility, the Trust/Enrollment Committee shall complete and issue any necessary reports to the Minor Beneficiaries. The Trust/Enrollment Committee



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shall develop standard reporting procedures, which establish valuation dates and frequency of reports and identify data critical to the completion of reports. The Trust/Enrollment Committee may delegate such reporting responsibilities to duly selected vendors.

(b) *Costs of Account.* The administrative costs related to a ~~trust account shall~~ Trust Account must be allocated to the account. Administrative costs ~~shall be defined as~~ are those costs related to third party fees and expenses resulting from managing the accounts. Administrative costs ~~shall do~~ not include any costs related to the expenses of the Trust Department, ~~Trust/Enrollment~~ Committee or Trust/Enrollment Department. ~~No member who has funds in a trust account shall be guaranteed the specific amount of the per capita payment.~~

(c) *Deceased Member.* ~~The value of a member's trust account shall be inheritable on the date of death of the member. The Trust Committee shall establish a standard operating procedure which shall identify the processes by which an application for payment shall be made. The payment shall be issued either in the name of the deceased member or the estate of the individual.~~

(1) ~~If the trust account funds are not claimed by the estate of the deceased within one (1) year after the date of the member's death, the funds shall be deposited in accordance with 9.5-6.~~

#### ~~9.6-2. Minors.~~

(a) *Disbursement of a Minor's Trust.* ~~A Tribal member shall be eligible to receive any funds in the trust account established in his or her name when the member is eighteen (18) years old or older and provides the Enrollment or Trust Department with proof that he or she has obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma. The funds shall be disbursed in accordance with an established payment schedule developed and approved by the Trust Department and Trust Committee.~~

(1) ~~Tribal members who are at least eighteen (18) years old, but do not provide proof of having obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma shall not be eligible to receive any trust funds established in their name until their twenty-first (21<sup>st</sup>) birthday.~~

(2) *Exceptions.* ~~The following Tribal members may receive any trust funds established in his or her name at the age of eighteen (18) without providing the Enrollment or Trust Department with proof that he or she has obtained a High School Diploma, a High School Equivalency Diploma or a General Equivalency Diploma:~~

(A) ~~Those who were in the graduating class of 2009 or a prior class.~~

(B) ~~Those who are declared legally incompetent adults, provided that, the requirements of 9.6-3 are met. Any funds in the minor's trust account for a Tribal member who is declared a legally incompetent adult shall be put into a trust account for the legally incompetent adult.~~

(C) ~~Those who have a learning disability or other disability, provided he or she presents a certificate of attendance showing that he or she has~~



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attended twelve (12) years of school. That certificate shall be treated as a High School Diploma.

~~(3) *Fraudulent Proof of a Diploma.* In the event the Enrollment or Trust Department believes that an individual has submitted fraudulent proof that he or she has received a High School Diploma, High School Equivalency Diploma or a General Equivalency Diploma, the Trust Department shall notify the Tribal member that they are investigating the proof to verify its authenticity. If the proof is deemed fraudulent, the Trust Department shall:~~

~~(A) Withhold payment of the trust account funds, if not already paid to the Tribal member, until the requirements of this law have been met.~~

~~(B) Impose a fine against the Tribal member of one third (1/3) of the Tribal member's trust account funds.~~

~~(C) Notify the Tribal member of the following:~~

~~(i) the proof has been deemed fraudulent;~~

~~(ii) payment of the trust account funds, if not already paid to the Tribal member, will not occur until the Tribal member submits valid proof of a diploma or he or she turns twenty one (21);~~

~~(iii) a fine against the Tribal member of one third (1/3) of the Tribal member's trust account funds will be imposed;~~

~~(iv) he or she can appeal the Trust Department's decision to the Trust Committee; and~~

~~(v) how to appeal the decision, including any applicable time limits.~~

~~(D) Take action to have the Tribal member's future per capita payments attached, in accordance with this law, until the fine is satisfied.~~

~~(E) Deposit any funds collected to pay a fine imposed under this section in a pooled account in accordance with 9.5-6.~~

~~(b) *Deferral Elections.* An individual may postpone payment of his or her trust account to a later date by entering into a deferral election. Deferral elections are subject to the Tribal Allocation Plan and the rules and restrictions set forth within any applicable trust agreement.~~

~~(c) *Unclaimed Minors Trust.* Except as provided for in 9.6-2(c)(1) below, any funds in a minor's trust account that are not claimed within one (1) year after the beneficiary's twenty-first (21<sup>st</sup>) birthday shall be deposited in a pooled account in accordance with 9.5-6.~~

~~(1) *Exception.* An individual who was at least eighteen (18) but not yet twenty-six (26) years old on May 6, 2009 shall have until his or her twenty-sixth (26<sup>th</sup>) birthday to file a claim for any funds in the minors trust account in his or her name.~~

~~(d) *(c) No Guarantee.* It is the Trust/Enrollment Committee's responsibility to invest Minor Beneficiaries' Distributions in accordance with the Per Capita Trust Agreement. Because the market affects the value of Minor Trust Accounts, Minor Beneficiaries are not guaranteed the specific amount of Distributions made prior to becoming a Majority~~



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Age Beneficiary.

(d) Disbursement to Majority Age Beneficiaries. Disbursement of Trust Account funds to Majority Age Beneficiaries is governed by the Per Capita Trust Agreement, provided that to be eligible for a Distribution, the Majority Age Beneficiary must:

(1) Meet the age and education requirements; and

(A) If the Majority Age Beneficiary has proof of a High School Diploma or its equivalent by September 1<sup>st</sup> of the Distribution year as required by the Per Capita Trust Agreement, he or she is eligible for Distribution at eighteen (18) years of age.

(B) If the Majority Age Beneficiary does not have proof of a High School Diploma or its equivalent by September 1<sup>st</sup> of the Distribution year as required by the Per Capita Trust Agreement, he or she is eligible for Distribution at twenty-one (21) years of age.

(2) Complete and submit a Majority Age Beneficiary Distribution form and/or deferral payment agreement by July 1<sup>st</sup> of the Distribution year.

(A) Deferrals. A Majority Age Beneficiary may postpone Distribution of all or some of his or her Trust Account funds by entering into a deferral payment agreement pursuant to the Per Capita Trust Agreement.

(d) Minor Beneficiary Relinquishment. Upon a ~~minor's~~ Minor Beneficiary's relinquishment ~~of Tribal membership~~, the following provisions shall apply:

(1) Any funds in a ~~trust account~~ Trust Account for ~~the minor~~ shall a Minor Beneficiary must be deposited in a joint savings account in the name of the Trust/Enrollment Committee and the former ~~Tribal member~~ Minor Beneficiary.

(2) ~~The~~ B A former Tribal member shall be Minor Beneficiary is eligible to claim the joint savings account in accordance with section 9.6-21(a)(4)(A).

(3) ~~Accounts shall be held until one (1) year after the former Tribal member turns twenty-one (21) years old.~~ (C) Any fees necessary for the establishment and maintenance of such an account ~~shall~~ must be allocated to the account in accordance with the procedures established by the Trust/Enrollment Committee.

(4) ~~Any funds~~ (D) A former Majority Age Beneficiary must claim any remaining funds held in a joint savings account ~~that remain~~ prior to the first Distribution following his or her twenty-first (21<sup>st</sup>) birthday.

(E) Any unclaimed ~~by the former Tribal member one (1) year after his or her twenty-first (21<sup>st</sup>) birthday shall~~ joint savings account funds must be deposited in a Pooled Account in accordance with section 9.5-6.5.

(e) Tribal members who do not claim their trust fund monies after reaching the age of eighteen (18) shall receive regular per capita payments, if they meet the requirements for an adult Tribal member to receive a per capita payment as set out in this law.

9.6-3. Legally Incompetent Adults.

(a) (e) Deceased Minor Beneficiary. The value of a Minor Beneficiary's Trust Account is inheritable on the date of the Minor Beneficiary's death. The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the processes by which an application for Distribution may be made. The Distribution may



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be issued either in the name of the deceased Minor Beneficiary or the estate of the Minor Beneficiary.

(1) If the Trust Account funds for a deceased Minor Beneficiary are not claimed by the estate of the deceased within one (1) year after the date of the Minor Beneficiary's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

9.6-2. Legally Incompetent Adults. This Section sets forth a consistent method to protect and preserve the interests of Legally Incompetent Adults in any Distribution for which they may be eligible. If a Distribution includes Legally Incompetent Adults as eligible recipients, those Distributions must be deposited into a Trust Account in accordance with IGRA.

(a) The Trust/Enrollment Committee. The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the set-up, monitoring, and Distribution of the Trust Accounts. When an ~~adult~~ Adult is declared legally incompetent, any ~~per capita payments~~ Distribution that ~~are~~ is claimed on his or her behalf ~~shall~~ must be placed in a ~~trust account~~ Trust Account for health, welfare and/or education expenses. The Trust/Enrollment Committee shall develop guidelines to determine if an ~~expense~~ guardian qualifies for reimbursement through a trust account fund payment.

(1) ~~The guardian of a legally incompetent adult shall file a petition with the Trust Department when requesting distributions~~ Distribution from such person's trust account. The guardian shall provide the Trust Department with either or both of the following:

(A) ~~an account, including receipts, of all expenditures made on behalf of the legally incompetent adult that have not been reimbursed from the trust account.~~

(B) ~~a written request, including sufficient, current information about a specific need for which the advance distribution will be used. Any advance distributions may be disbursed jointly to the guardian and the provider or institution providing the specific services or the amount disbursed may be paid directly to the provider or institution.~~

(2) ~~The Trust Director or his/her designee shall either grant or deny the request within ten (10) business days.~~

(A) ~~If the Trust Director approves a distribution request, the funds shall be disbursed within thirty (30) days after the approval. The Trust Director may, with the approval of the Trust Committee, authorize a regular distribution from the trust account for a legally incompetent adult's benefit.~~

(B) ~~If the Trust Director denies a distribution request, he or she shall send, by registered mail (return receipt requested), the denial and the reasons for the denial to the guardian within ten (10) business days after the decision is made.~~

(3) ~~Appeals.~~ A guardian whose petition for distributions is denied may file an appeal with the ~~an established~~ Trust Committee within ten (10) business days of the receipt of the denial Account.



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(b) Reversal of Incompetency. If a ~~court~~Court of competent jurisdiction determines that an ~~adult Tribal member~~Adult is no longer legally incompetent, the ~~Tribal member~~Adult shall provide the Trust/Enrollment Department with a certified copy of the order. Any funds in the ~~trust account~~Trust Account in the ~~member's~~Adult's name shall be ~~disbursed~~Distributed to the ~~Tribal member~~Adult, provided that the ~~Tribal member~~Adult ~~is~~must otherwise ~~be~~ eligible for the ~~payment~~Distribution and follow the required processes under this ~~law~~Law.

(c) Relinquishment. Upon ~~a legally incompetent adult's~~the Trust/Enrollment Committee's approval of a Legally Incompetent Adult's relinquishment of Tribal ~~membership~~Membership, any funds in a ~~trust account~~Trust Account for the ~~legally incompetent adult~~Legally Incompetent Adult ~~shall~~must be disbursed to the guardian of the ~~legally incompetent adult~~Legally Incompetent Adult.

(d) Deceased Legally Incompetent Adult. The balance of a Legally Incompetent Adult's Trust Account is inheritable as of the date of his or her death. The Trust/Enrollment Committee shall establish a standard operating procedure which must identify the processes by which the deceased's estate may apply for Distribution of the Trust Account funds. The Distribution may be issued either in the name of the deceased Legally Incompetent Adult or the estate of the Legally Incompetent Adult.

(1) If the Trust Account funds for a deceased Legally Incompetent Adult are not claimed by the estate of the deceased within one (1) year after the date of the Legally Incompetent Adult's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

## 9.7. Duties and Responsibilities

### 9.7-1. General.

### 9.7. Payments

~~9.7-1. General.~~ This section ~~shall set~~sets forth the responsibilities of ~~the various departments and committees~~Entities when a ~~per capita payment~~Distribution is issued.

~~9.7-2. Trust/Enrollment Department.~~ ~~The Enrollment Department is responsible for the following activities when a per capita payment~~When a Per Capita Payment is approved:

(a) ~~The~~the Trust/Enrollment Department shall develop:

(a) Develop and finalize a list of the eligible ~~Tribal members~~Distribution recipients broken down into the following categories: ~~minors, incompetent adults, adults and elderly.~~ Minor Beneficiaries, Majority Age Beneficiaries, Legally Incompetent Adults, Adults and elders.

(b) ~~The Enrollment Department shall provide~~(1) For the purposes of this Section, elder means a Tribal Member who meets the age requirements as of December 31<sup>st</sup> of a given year to be eligible for an elder Distribution as determined by the effective General Tribal Council Resolution.

(b) Provide the finalized list of ~~the number of Tribal Members~~ eligible ~~Tribal members~~to receive the Distribution to the ~~Trust Department and the Oneida~~ Accounting Division.

(c) ~~Membership payment forms are sent out and upon return are entered into the Enrollment data base~~Trust Fund Accountant.

(d) ~~After the~~(c) Send membership ~~payment form return deadline date, processing the~~



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payment Distribution and distributing all payments on the same day.

9.7-3. ~~Trust Department.~~ The Trust Department is responsible for the following activities when a per capita payment is approved: Account forms and receipts related to the same.

(a) ~~Upon receipt of~~ d) Manage and maintain the ~~number of eligible members~~ Enrollment Database including, but not limited to ~~receive a per capita payment,~~ membership and Distribution information.

(e) Process the Distribution data and forward the data to the Oneida Accounting Division and Trust Department ensures Fund Accountant.

(f) Ensure the availability and liquidity of funds for ~~a funds~~ transfer of the trust funds under the authorization/jurisdiction of the Trust/Enrollment Committee.

(b) ~~The Trust Department provides funds~~ (g) Provide fund transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Division.

(c) ~~The Trust Department shall work~~ h) Work with the Trust/Enrollment Committee ~~in the establishment of~~ to establish any necessary ~~trust accounts~~ Trust Accounts.

(d) ~~The~~ i) Monitor all Trust ~~Department is responsible for monitoring all accounts~~ Accounts for the purposes of necessary ~~reports~~ reporting, claims and ~~payment~~ Distribution verification.

(j) Complete Trust Account reconciliations.

9.7-4. ~~3. Oneida Accounting Division.~~ The ~~When a Per Capita Payment is approved, the Oneida Accounting Division is responsible for the following activities when a per capita payment is approved~~ shall:

(a) ~~Upon~~ Initiate and complete the funds transfer upon receipt of funds transfer instructions from the authorizing ~~entity, initiate and complete the funds transfer.~~ Tribal Entity. The physical movement of funds must happen no later than one (1) business day prior to the ~~distribution~~ Distribution date ~~of the payment.~~

(b) Record issued, voided and ~~stale dated distributions~~ unredeemed check Distributions on the ~~General Ledger~~ general ledger.

(c) Complete bank account reconciliations.

9.7-5. *Tribal Treasurer.* The office of the Tribal Treasurer shall ~~be responsible for the identification of~~ identify funds and ~~the~~ shall timely transfer ~~of~~ the necessary amount of relevant funds to the Trust/Enrollment Committee, the Trust Fund Accountant and the Oneida Accounting Division. ~~The relevant funds shall be segregated and obligated for the per capita payments and are those necessary to:~~

(a) ~~Make a payment to those Tribal members responding to the membership payment form deadline who are not minors or incompetent adults.~~

(b) ~~Cover unverified member payments for those members who are unresponsive to the membership payment form deadline.~~

## 9.8. Appeals

9.8-1. Any Tribal Member or guardian of a Tribal Member may appeal a decision regarding a Per Capita Payment and/or Distribution to the Judiciary.

*End.*

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Adopted - BC-7-12-00-B  
Emergency Amendments – BC-01-03-01-B  
Emergency Amendments - BC-2-28-01-E  
Amendments - BC-11-06-02-A (Elder Per Capita)  
Emergency Amendments - BC-6-25-03-G (Child support priority for attachment)  
Amendments - BC-6-16-04-C (Child support priority for attachment)  
Emergency Amendments - BC-9-12-07-A (one-time per capita payment)  
Amendments – BC-04-22-09-A (High School Diploma; legally incompetent adults)  
Emergency Amendments – BC-06-08-11-D (Fraudulent diploma; dual enrollments)  
Emergency Amendments extended – BC-11-09-11-E (Fraudulent diploma; dual enrollments)  
Amendments Adopted – BC-05-09-12-B (Fraudulent diploma, dual enrollments)  
Emergency Amendments – BC-09-12-12-A (Change in distribution date) Expired 3-12-13  
Amendments Adopted – BC-08-14-13-D

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**Chapter 9**  
**PER CAPITA**  
**Shakotiwí? Stawihé Olihwa'ke**  
Issues concerning where they give the money

9.1. Purpose and Policy  
9.2. Adoption, Amendment, Repeal  
9.3. Definitions  
9.4. General

9.5. Distributions  
9.6. Minor Beneficiaries and Legally Incompetent Adults  
9.7. Duties and Responsibilities

**9.1. Purpose and Policy**

9.1-1. *Purpose.* The purpose of this Law is:

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

9.1-2. *Policy.* It is the policy of the Tribe to have a consistent methodology for distribution of per capita payments, including payments derived from Gaming Revenues and regulated by IGRA.

**9.2. Adoption, Amendment, Repeal**

9.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-7-12-00-B and amended by resolution BC-11-06-02-A, BC-6-16-04-C, BC-04-22-09-A, BC-05-09-12-B and BC-08-14-13-D and \_\_\_\_\_.

9.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

9.2-3. 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.

9.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control.

9.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**9.3. Definitions**

9.3-1. This section governs the definitions of words and phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "Adult" means a Tribal Member who is at least eighteen (18) years of age on or before September 1<sup>st</sup> of a given year.
- (b) "Arrears" means the amount of money a Tribal Member has not paid pursuant to the most recent child support court order against him or her.
- (c) "Court of competent jurisdiction" means the Judiciary, a state or federal court or another court recognized by the Judiciary as having the jurisdiction to hear and determine a particular legal proceeding.
- (d) "Day" means calendar days, unless otherwise specifically stated.



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- (e) "Direct Deposit" means the electronic distribution of per capita funds.
- (f) "Distribution" means the transfer of per capita funds to Tribal Members.
- (g) "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.
- (h) "Judiciary" means the Tribe's judicial system, which includes the Family Court, Trial Court and/or Appellate Court.
- (i) "Legally Incompetent Adult" means a Tribal Member who is at least eighteen (18) years of age and has been declared incompetent by a court of competent jurisdiction pursuant to applicable law.
- (j) "Majority Age Beneficiary" means a Tribal Member who has reached eighteen (18) years of age by September 1<sup>st</sup> and is eligible to claim a trust account for the first time in the distribution year.
- (k) "Minor Beneficiary" means a Tribal Member who is less than eighteen (18) years age.
- (l) "Per Capita Payment" means the amount authorized by the General Tribal Council to be distributed to Tribal Members.
- (m) "Pooled Account" means the account set up by the General Tribal Council or Oneida Business Committee, through resolution, for the purpose of managing undistributed per capita funds pursuant to Tribal law.
- (n) "Tribal" or "Tribe" means the Oneida Tribe of Indians of Wisconsin.
- (o) "Tribal Entity" means a department, board, committee or commission of the Tribe or the Judiciary.
- (p) "Tribal Member" means an individual who is an enrolled member of the Tribe.
- (q) "Trust Account" means an account(s) established by the Trust/Enrollment Committee for the purpose of maintaining Per Capita funds for persons pursuant to the Tribal revenue allocation plan, which includes, but is not limited to, Minor Beneficiaries and Legally Incompetent Adults.
- (r) "Trust/Enrollment Committee" means that body designated by the General Tribal Council to manage the trust funds for the Tribe on behalf of Tribal members, and which is also responsible for the enrollment records of the Tribe.
- (s) "Trust Fund Accountant" means the third party professionals hired by the Trust/Enrollment Committee to oversee Trust Accounts established pursuant to this Law.

#### **9.4. General**

9.4-1. This Section sets forth the responsibilities delegated under this Law.

9.4-2. *Supersedes.* This Law supersedes any contradictory language contained in any other Per Capita Payment plan.

9.4-3. *Budgetary Limitations.* This Law may not be construed as mandating a Per Capita Payment; Per Capita Payments may only be issued at the direction of the General Tribal Council through adoption of a resolution.

9.4-4. *Trust/Enrollment Committee.* The Trust/Enrollment Committee shall:

- (a) Manage Trust Accounts related to Per Capita Payments with fiduciary responsibility;
- (b) Maintain the Tribe's membership rolls so that the Trust/Enrollment Department can accurately identify which Tribal Members are eligible for Distribution;

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(d) Develop Tribal revenue allocation plans required by Tribal laws, policies or rules in order to Distribute Per Capita Payments, provided that said plans must be approved by the Oneida Business Committee;

(e) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this sub-section; and

(f) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Oneida Business Committee.

9.4-5. *Oneida Business Committee.* The Oneida Business Committee shall:

(a) Identify and allocate funds available for Per Capita Payments;

(b) Forward approved Tribal revenue allocation plans to the Bureau of Indian Affairs;

(c) Transfer funds to the appropriate Tribal Entity(ies) pursuant to Tribal law within a reasonable time frame;

(d) Be responsible for any activities not specifically identified but reasonably related to the responsibilities in this in this sub-section; and

(e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the Trust/Enrollment Committee.

9.4-6. *Attachments.* Per Capita Payments are considered benefits offered by the Tribe to Tribal Members. All Per Capita Payments, except Distributions to or from a Trust Account for a Minor Beneficiary, are subject to attachment prior to Distribution in accordance with this Section and shall follow the timelines established by the Trust/Enrollment Committee.

(a) Per Capita Payment attachments may only be ordered by the Judiciary for the following purposes, and in the following order:

(1) Child support Arrears ordered by a Court of competent jurisdiction. After child support Arrears are fully satisfied, any remaining Per Capita Payments must be used for the payment of debt owed to a Tribal Entity.

(A) If a Tribal Member owes Arrears in more than one (1) child support order, the per capita must be equally divided based on the number of court orders under which Arrears are owed.

(2) Debt owed to a Tribal Entity that is past due. After child support Arrears and debt owed to a Tribal Entity have been fully satisfied, any remaining Per Capita Payment must be used for the payment of a federal tax levy.

(A) "Debt owed to a Tribal Entity" includes any money owed to a Tribal Entity and any fines that have been issued by a Tribal Entity.

(B) If a Tribal Member owes debt to more than one (1) Tribal Entity, the per capita shall be equally divided based on the number of Entities that are owed debt.

(3) A federal tax levy.

(b) If the amount of the Per Capita Payment exceeds the amount of the attachment, the remaining balance must be Distributed to the Tribal Member, provided the Tribal Member has met the Distribution requirements contained in this Law. If there is a remaining unclaimed balance, said balance must remain available as identified in 9.5-5 and may be requested to be Distributed as provided in 9.5-2(e)(1). If there is a remaining refused balance, it must be deposited in accordance with 9.5-5.

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(c) *Child Support Attachments.* All requests for attachments for child support Arrears must be submitted to the Tribe's Child Support Agency. The claimant or a representative designated to receive the Arrears may request the attachment.

(1) After receiving an initial attachment request for child support Arrears, the Tribe's Child Support Agency shall send a one-time notice and a voluntary federal income tax withholding request form to those Tribal Members whose Per Capita Payment will be attached for child support Arrears.

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

(3) In order to attach a Tribal Member's Per Capita Payment to collect child support Arrears, the Trust/Enrollment Department must receive an order of determination from the Judiciary.

(4) After the child support Arrears have been satisfied, if an attachment request is submitted for the same Tribal Member's Per Capita Payment based on new child support Arrears, the Tribe's Child Support Agency shall issue another one-time notice and federal income tax withholding form in accordance with 9.4-6(d)(1).

(d) *Tribal Debt and Federal Tax Levy Attachments.* All requests for attachments for debt owed to a Tribal Entity after receiving a judgment from a Court of competent jurisdiction or to the federal government for a federal tax levy must be submitted to the Judiciary. The claimant or a representative designated to receive the claim may request the attachment.

(1) Upon recognizing a need to attach a Tribal Member's Per Capita Payment to collect a Tribal debt, the Tribal Entity shall send a one-time notice and a voluntary federal income tax withholding request form to said Tribal Members; the one time notice must be sent by first class U.S. mail to the last known address of the party.

(A) Tribal Members subject to attachment to collect a debt owed to the Judiciary who wish to appeal the attachment may file a request for a show cause hearing during which the Tribal Member may present evidence to show that the Judiciary's accounting of the debt owed by the Tribal Member is inaccurate or unfounded. The Judiciary shall honor all requests for show cause hearings received within ten (10) business days from the date of the one-time notice of attachment.

(2) If attaching for Tribal debt, the Tribal Entity shall prepare a certified accounting of all attachment requests and forward the accounting to the Judiciary.

(3) In order to attach a Tribal Member's Per Capita Payment to collect a Tribal debt or a federal tax levy, the Trust/Enrollment Department must receive an order of determination from the Judiciary.

(e) The Judiciary may order attachments against Per Capita Payments of Tribal Members who do not return a notarized membership payment form as required under 9.5-2(b)(1) or who refuse a payment under 9.5-2(f). If the amount of the Per Capita Payment exceeds the amount of the attachment, the remaining unclaimed balance must remain available as identified in 9.5-5 and the remaining refused balance must be deposited in accordance

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with 9.5-5.

9.4-7. *Federal Income Tax Withholding.*

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

(1) Tribal Member's whose Per Capita Payment is not subject to attachment in accordance with Section 9.4-6 may voluntarily request to have federal income tax withheld, provided that such requests must be received in accordance with the applicable distribution dates.

(2) Tribal Member's whose Per Capita Payment is subject to attachment in accordance with Section 9.4-6 may voluntarily request to have federal income tax withheld, provided that such requests must be received in accordance with the deadlines established by the Tribal Entity pursuing the attachment. Federal income tax withholding requests that are timely received must be applied to the applicable Distribution before any attachments are applied.

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

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

**9.5. Distributions**

9.5-1. *General.* This section sets forth the required processes for Distribution of Per Capita Payments.

9.5-2. *Deadlines.* The following deadlines apply in regards to the annual Per Capita Payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline is construed to be the close of business on the following business day. For any additional Per Capita Payments, the Trust/Enrollment Committee may establish dates and deadlines associated with those payments, as needed.

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

(1) *Filing Deadlines.* An individual who is not a Tribal Member shall file a new enrollment application no later than the close of business on January 31<sup>st</sup> in order to be considered eligible for the following Per Capita Payment.

(A) *Enrollment Deadlines.* An individual is considered enrolled for the purposes of a Per Capita Payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by March 31<sup>st</sup>.

(B) A newly enrolled Tribal Member is eligible only for Per Capita Payments authorized to be Distributed following the effective date of his or her enrollment; he or she is not eligible to receive any Per Capita Payments that were Distributed prior to the effective date of his or her enrollment.

(2) *Dual Enrollment.* A Tribal Member who is dually enrolled with the Tribe and another Indian tribe is not eligible for a Per Capita Payment unless his or her

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relinquishment from the other tribe has been processed and written verification that the member is no longer enrolled with that tribe has been received by the Trust/Enrollment Department by September 1<sup>st</sup>.

(b) *Distribution Documents.*

(1) *Adult Distribution Form and Instructions.*

(A) Prior to July 1st of the year the Trust/Enrollment Department shall mail Membership Distribution forms and instructions to those who do not have a Direct Deposit record on file with the Trust/Enrollment Department.

(i) Adults shall complete, notarize and return a notarized Membership Distribution form to the Trust/Enrollment Department by close of business on or before September 1<sup>st</sup> in order to be eligible for a Per Capita Distribution.

(B) Prior to July 1st of the year the Trust/Enrollment Department shall mail receipts to those who have a Direct Deposit record on file with the Trust/Enrollment Department. Adults receiving the receipts are not required to submit a Membership Distribution form unless an Adult wishes to remove his or her Direct Deposit record.

(i) An Adult wishing to remove his or her Direct Deposit record must complete, notarize and return all applicable forms to the Trust/Enrollment Department by close of business on or before the Distribution Form deadline.

(C) The Trust/Enrollment Department shall make available late Membership Distribution forms. The acceptance of these forms must comply with section 9.5-2(e).

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

(A) Prior to April 1<sup>st</sup> of the year the Trust/Enrollment Department shall mail Trust Account forms and instructions to eligible Majority Age Beneficiaries for Trust Account Distributions.

(B) The Trust/Enrollment Department shall make available late Trust Account forms. The acceptance of these forms must be processed in accordance with Article III of the Per Capita Trust Agreement.

(c) *Annual Distribution Date.* All annual Per Capita Payments, excluding those to Minor Beneficiary Trust Accounts, which are governed by the Per Capita Trust Agreement, must be Distributed on or before September 30<sup>th</sup>.

(d) *Direct Deposit.* Adults and Majority Age Beneficiaries may submit a Direct Deposit form at any time. All Direct Deposit forms must be received by the applicable Per Capita or Trust Account Distribution Form deadline in order to be applied to a Distribution.

(1) Any fees associated with reissuing a Distribution must be deducted from the reissued Distribution. (Fees may include, but are not limited to, stop payment and Direct Deposit bank rejection fees).

(2) The Tribe shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Tribe's behalf may not count against the



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Tribal Member as identified in 9.5-2 (e)(2)(A).

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

(1) *Unclaimed Payment.* Tribal Members must submit a request for a prior Adult Per Capita Payment, for which the Tribal Member was eligible, but was not claimed or fully attached, by September 1<sup>st</sup> of the next year. For example, if a payment's original Distribution date is in 2000, then the deadline is September 1, 2001. If a request is not received by the deadline date, the payment will expire and the funds must be deposited in a Pooled Account in accordance with 9.5-5.

(A) Prior Per Capita Payments requested by an eligible Adult must be distributed as follows:

(i) By March 31st, if the late Membership payment form is received after September 1<sup>st</sup>, but on or before March 1<sup>st</sup>.

(ii) By September 30th, if the late Membership payment form is received after March 1st, but on or before September 1<sup>st</sup>.

(B) Prior Per Capita Payments requested by a Majority Age Beneficiary must be distributed in accordance with Article III of the Per Capita Trust Agreement.

(2) *Distribution of Unredeemed Checks.* Tribal Members must submit a request for an Adult or Majority Age Beneficiary's prior Distribution, for which a Tribal Member already claimed, but did not redeem, by September 1<sup>st</sup> of the next year. For example, if a Distribution's original issue date is in 2000, then the deadline is September 1, 2001.

(A) An Adult, Beneficiary or Majority Age Beneficiary's Distribution may only be reissued once. After the Distribution is reissued the Tribal Member has ninety (90) days to redeem it or the Distribution will expire and may not be reissued. Expired funds must be deposited in a Pooled Account in accordance with 9.5-5.

(B) Any fees associated with reissuing a Distribution must be deducted from the reissued Distribution. (Fees may include but are not limited to stop payment and Direct Deposit bank rejection fees).

(i) The Tribe shall waive fees if a check is reissued due to an error on its behalf. A reissue made due to an error on the Tribe's behalf may not count against the Tribal Member as identified in 9.5-2 (e)(2)(A).

(f) *Refusal of Distributions.* An Adult or Majority Age Beneficiary may refuse any Distribution due to him or her, including a Trust Account Distribution, by completing a refusal form available with Trust/Enrollment Department. However, if the Judiciary has approved an attachment of an Adult Distribution, only the remaining portion of the Distribution, if any, may be refused. Majority Age Beneficiary Distributions are not attachable.

(1) Upon submitting the refusal form to the Trust/Enrollment Department, the Adult or Majority Age Beneficiary irrevocably waives his or her right to the specific Distribution as indicated on the form.

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(2) Refusal forms must be received by the Distribution deadline.

(3) A refused Distribution must be deposited in a Pooled Account in accordance with 9.5-5.

9.5-3. *Deceased Members.* An Adult or Minor Beneficiary is ineligible to receive a Distribution if his or her date of death occurs on or before the Distribution date.

(a) The estate of a deceased Adult may not submit a membership Distribution form on behalf of the deceased to claim a Distribution.

(b) A deceased Adult's Distribution must be deposited in a Pooled Account in accordance with 9.5-5.

9.5-4. *Adult Relinquishment.* An Adult is ineligible for any current, future or prior Per Capita Payment Distributions as of the date his or her Tribal Membership is relinquished. Funds set aside for a former Adult's Distribution must be deposited in a Pooled Account in accordance with 9.5-5.

Option A: 9.5-5. *Pooled Account.* Funds must be held in reserve for unclaimed Per Capita Payments until the Tribal Members' rights to the said unclaimed Per Capita Payments have expired. Once the right has expired, the funds held in reserve must be deposited in a Pooled Account, which is managed by the Trust/Enrollment Committee, to be used for a purpose designated by the General Tribal Council.

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

(1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);

(2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;

(3) An Adult becomes deceased prior to a Distribution date; or

(4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).

Option B: 9.5-5. *Pooled Account.* Pooled Account Funds are managed by the Trust/Enrollment Committee, to be used for a purposed designated by General Tribal Council. The Pooled account funds result from the following.

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

(1) A Tribal Member submits a refusal form pursuant to Section 9.5-2(f);

(2) A Tribal Member fails to request a prior Distribution or Trust Account funds within the time provided under this Law and/or the Per Capita Trust Agreement;

(3) An Adult becomes deceased prior to a Distribution date; or

(4) The estate of a deceased Minor Beneficiary fails to request Distribution of the Trust Account within the time provided pursuant to Section 9.6-1(e).

## 9.6. Minor Beneficiaries and Legally Incompetent Adults

9.6-1 *Minor Beneficiaries.* This Section sets forth a consistent method to protect and preserve the interests of Minor Beneficiaries in any Distribution to which a Minor Beneficiary may be eligible. All Distributions to Minor Beneficiaries are governed by this Law, IGRA and the Per

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Capita Trust Agreement.

(a) *The Trust/Enrollment Committee.* The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the set-up, monitoring and distribution of the Trust Accounts. The Trust/Enrollment Committee may choose to maintain pooled or individual accounts, separate accounts for each Distribution or series of Distributions, or any other combination which is in the interests of the beneficiaries and which is consistent with the terms of the Per Capita Trust Agreement and the Trust/Enrollment Committee's Investment Policy.

(1) The Trust/Enrollment Committee is responsible for the protection and preservation of Per Capita Payment funds for Minor Beneficiaries. As part of that responsibility, the Trust/Enrollment Committee shall complete and issue any necessary reports to the Minor Beneficiaries. The Trust/Enrollment Committee shall develop standard reporting procedures, which establish valuation dates and frequency of reports and identify data critical to the completion of reports. The Trust/Enrollment Committee may delegate such reporting responsibilities to duly selected vendors.

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

(c) *No Guarantee.* It is the Trust/Enrollment Committee's responsibility to invest Minor Beneficiaries' Distributions in accordance with the Per Capita Trust Agreement. Because the market affects the value of Minor Trust Accounts, Minor Beneficiaries are not guaranteed the specific amount of Distributions made prior to becoming a Majority Age Beneficiary.

(d) *Disbursement to Majority Age Beneficiaries.* Disbursement of Trust Account funds to Majority Age Beneficiaries is governed by the Per Capita Trust Agreement, provided that to be eligible for a Distribution, the Majority Age Beneficiary must:

(1) Meet the age and education requirements; and

(A) If the Majority Age Beneficiary has proof of a High School Diploma or its equivalent by September 1<sup>st</sup> of the Distribution year as required by the Per Capita Trust Agreement, he or she is eligible for Distribution at eighteen (18) years of age.

(B) If the Majority Age Beneficiary does not have proof of a High School Diploma or its equivalent by September 1<sup>st</sup> of the Distribution year as required by the Per Capita Trust Agreement, he or she is eligible for Distribution at twenty-one (21) years of age.

(2) Complete and submit a Majority Age Beneficiary Distribution form and/or deferral payment agreement by July 1<sup>st</sup> of the Distribution year.

(A) *Deferrals.* A Majority Age Beneficiary may postpone Distribution of all or some of his or her Trust Account funds by entering into a deferral payment agreement pursuant to the Per Capita Trust Agreement.

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(d) *Minor Beneficiary Relinquishment.* Upon a Minor Beneficiary's relinquishment the following provisions apply:

(1) Any funds in a Trust Account for a Minor Beneficiary must be deposited in a joint savings account in the name of the Trust/Enrollment Committee and the former Minor Beneficiary.

(B) A former Minor Beneficiary is eligible to claim the joint savings account in accordance with section 9.6-1(a)(4)(A).

(C) Any fees necessary for the establishment and maintenance of such an account must be allocated to the account in accordance with the procedures established by the Trust/Enrollment Committee.

(D) A former Majority Age Beneficiary must claim any remaining funds held in a joint savings account prior to the first Distribution following his or her twenty-first (21<sup>st</sup>) birthday.

(E) Any unclaimed joint savings account funds must be deposited in a Pooled Account in accordance with section 9.5-5.

(e) *Deceased Minor Beneficiary.* The value of a Minor Beneficiary's Trust Account is inheritable on the date of the Minor Beneficiary's death. The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the processes by which an application for Distribution may be made. The Distribution may be issued either in the name of the deceased Minor Beneficiary or the estate of the Minor Beneficiary.

(1) If the Trust Account funds for a deceased Minor Beneficiary are not claimed by the estate of the deceased within one (1) year after the date of the Minor Beneficiary's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

9.6-2. *Legally Incompetent Adults.* This Section sets forth a consistent method to protect and preserve the interests of Legally Incompetent Adults in any Distribution for which they may be eligible. If a Distribution includes Legally Incompetent Adults as eligible recipients, those Distributions must be deposited into a Trust Account in accordance with IGRA.

(a) *The Trust/Enrollment Committee.* The Trust/Enrollment Committee shall establish a standard operating procedure, which must identify the set-up, monitoring, and Distribution of the Trust Accounts. When an Adult is declared legally incompetent, any Distribution that is claimed on his or her behalf must be placed in a Trust Account for health, welfare and/or education expenses. The Trust/Enrollment Committee shall develop guidelines to determine if a guardian qualifies for Distribution from an established Trust Account.

(b) *Reversal of Incompetency.* If a Court of competent jurisdiction determines that an Adult is no longer legally incompetent, the Adult shall provide the Trust/Enrollment Department with a certified copy of the order. Any funds in the Trust Account in the Adult's name shall be Distributed to the Adult, provided that the Adult must otherwise be eligible for the Distribution and follow the required processes under this Law.

(c) *Relinquishment.* Upon the Trust/Enrollment Committee's approval of a Legally Incompetent Adult's relinquishment of Tribal Membership, any funds in a Trust Account



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for the Legally Incompetent Adult must be disbursed to the guardian of the Legally Incompetent Adult.

(d) *Deceased Legally Incompetent Adult.* The balance of a Legally Incompetent Adult's Trust Account is inheritable as of the date of his or her death. The Trust/Enrollment Committee shall establish a standard operating procedure which must identify the processes by which the deceased's estate may apply for Distribution of the Trust Account funds. The Distribution may be issued either in the name of the deceased Legally Incompetent Adult or the estate of the Legally Incompetent Adult.

(1) If the Trust Account funds for a deceased Legally Incompetent Adult are not claimed by the estate of the deceased within one (1) year after the date of the Legally Incompetent Adult's death, the Trust Fund Account must be liquidated and deposited in accordance with 9.5-5.

## **9.7. Duties and Responsibilities**

**9.7-1. General.** This section sets forth the responsibilities of various Entities when a Distribution is issued.

**9.7-2. Trust/Enrollment Department.** When a Per Capita Payment is approved, the Trust/Enrollment Department shall:

(a) Develop and finalize a list of the eligible Distribution recipients broken down into the following categories: Minor Beneficiaries, Majority Age Beneficiaries, Legally Incompetent Adults, Adults and elders.

(1) For the purposes of this Section, elder means a Tribal Member who meets the age requirements as of December 31<sup>st</sup> of a given year to be eligible for an elder Distribution as determined by the effective General Tribal Council Resolution.

(b) Provide the finalized list of Tribal Members eligible to receive the Distribution to the Oneida Accounting Division and Trust Fund Accountant.

(c) Send membership Distribution and Trust Account forms and receipts related to the same.

(d) Manage and maintain the Enrollment Database including, but not limited to, membership and Distribution information.

(e) Process the Distribution data and forward the data to the Oneida Accounting Division and Trust Fund Accountant.

(f) Ensure the availability and liquidity of funds for transfer of the trust funds under the authorization of the Trust/Enrollment Committee.

(g) Provide fund transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Division.

(h) Work with the Trust/Enrollment Committee to establish any necessary Trust Accounts.

(i) Monitor all Trust Accounts for the purposes of necessary reporting, claims and Distribution verification.

(j) Complete Trust Account reconciliations.

**9.7-3. Oneida Accounting Division.** When a Per Capita Payment is approved, the Oneida Accounting Division shall:

(a) Initiate and complete the funds transfer upon receipt of funds transfer instructions

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from the authorizing Tribal Entity. The physical movement of funds must happen no later than one (1) business day prior to the Distribution date.

(b) Record issued, voided and unredeemed check Distributions on the general ledger.

(c) Complete bank account reconciliations.

9.7-5. *Tribal Treasurer*. The office of the Tribal Treasurer shall identify funds and shall timely transfer the necessary amount of relevant funds to the Trust/Enrollment Committee, the Trust Fund Accountant and the Oneida Accounting Division.

## **9.8. Appeals**

9.8-1. Any Tribal Member or guardian of a Tribal Member may appeal a decision regarding a Per Capita Payment and/or Distribution to the Judiciary.

*End.*

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Adopted - BC-7-12-00-B

Emergency Amendments – BC-01-03-01-B

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

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

Emergency Amendments - BC-6-25-03-G (Child support priority for attachment)

Amendments - BC-6-16-04-C (Child support priority for attachment)

Emergency Amendments - BC-9-12-07-A (one-time per capita payment)

Amendments – BC-04-22-09-A (High School Diploma; legally incompetent adults)

Emergency Amendments – BC-06-08-11-D (Fraudulent diploma; dual enrollments)

Emergency Amendments extended – BC-11-09-11-E (Fraudulent diploma; dual enrollments)

Amendments Adopted – BC-05-09-12-B (Fraudulent diploma, dual enrollments)

Emergency Amendments – BC-09-12-12-A (Change in distribution date) Expired 3-12-13

Amendments Adopted – BC-08-14-13-D



# Legislative Operating Committee

## February 3, 2016

# Administrative Rulemaking Law

**Submission Date:** 09/17/14

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** Tehassi Hill

**Summary:** *This item was carried over into the current term by the LOC. Originally submitted to the LOC on April 13, 2012; the proposal seeks a consistent process for the adoption of administrative rules by Tribal agencies that have been granted rulemaking authority under other Tribal laws.*

**9/17/14 LOC:** Motion by Tehassi Hill to add the Rulemaking Law to the Active Files List with Tehassi Hill as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

**8/19/15 LOC:** Motion by Fawn Billie to defer the Rulemaking Law, with the noted changes, to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; and to bring an update to the September 16, 2015 LOC meeting and to bring back the legislative analysis within 60 days; seconded by Tehassi Hill. Motion carried unanimously.

**9/16/15 LOC:** Motion by David P. Jordan to accept the memorandum regarding the status of the Administrative Rulemaking Law as FYI; seconded by Jennifer Webster. Motion carried unanimously.

**10/21/15 LOC:** Motion by Fawn Billie to accept the legislative analysis and defer the Administrative Rulemaking Law to the sponsor to go through the noted considerations, make any changes if necessary and prepare for December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.

**12/16/15 LOC:** Motion by David P. Jordan to enter the Administrative Rulemaking Law and Comprehensive Policy Governing Boards, Committees and Commissions Amendments e-poll into the record; seconded by Jennifer Webster. Motion carried unanimously.

### Next Steps:

- Review the comments received based on the Public Meeting and public comment period. If no changes are directed, direct the LRO to prepare the Administrative Rulemaking Law to be forwarded to the Oneida Business Committee for consideration.



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

Krystal L. John, Staff Attorney  
Douglass A. McIntyre, Staff Attorney  
Taniquelle J. Thurner, Legislative Analyst  
Maureen Perkins, LTE 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 (LOC)  
**FROM:** Krystal L. John, Staff Attorney *KLJ*  
**DATE:** February 3, 2016  
**RE:** Administrative Rulemaking Law: Public Meeting Comment Review

On January 7, 2016, a public meeting was held regarding the development of the Administrative Rulemaking (Law). This is a new Law that:

- Allows Authorized Agencies to prepare their own Rules, conducting the required public meetings; receiving comments during the public comment periods, and reviewing/considering all comments received. [17.4 and 17.6]
- A Rule officially goes into effect after the LOC certifies that it was promulgated in accordance with this Law – it does not have to be adopted by OBC/GTC resolution [17.7], except that the OBC is still responsible for adopting emergency Rules before they go into effect. [17.9]
- The OBC reviews a Rule once it has been certified by the LOC. This Law sets out a detailed process for the OBC to repeal/change a Rule within a certain period of time. [17.7]
- Has standards of review – i.e. identifying when a person can appeal actions taken pursuant to a Rule, and when the Judge can reverse or modify an action taken. [17.11 and 17.12]
- Identifies requirements for seeking Judicial Review of a Rule (i.e. seeking to have the Judiciary determine whether a Rule is valid) – and enabling the Judiciary to strike down part or all of a Rule if it violates the Tribal Constitution or is otherwise unlawful, or if it exceeds the Authorized Agency's Rulemaking authority.)

This memorandum is submitted as a review of the oral comments received during the public meeting process; no written comments were received within the public comment period. The public meeting draft with oral comments is attached for your review.

**Comment 1. Financial Analysis Required by Tribal Entity**

Excerpt from analysis:

When a Rule is presented for public comment, LOC certification or OBC review, it is required to be accompanied by supporting materials, which are combined into one summary report, which must provide an overview of the Rule, [17.5-2] and include:

...

**A financial analysis** – this is prepared by the Authorized Agency, and must include a report from every entity that may be financially affected by the Rule. [17.3-1(c)] If an entity does not provide the requested information within 10 business days the financial analysis may still be submitted, noting which entities were non-responsive to their request. [17.5-2(e)(1)]

...

**Rae Skenandore:** Umm, it also states that when a new Rule is brought forward that there would be a financial analysis, now there is a financial analysis that is done with the law, so this financial analysis, if I am understanding correctly is required by the agency that is developing the Rule, is that correct?

**Brandon Stevens:** Yea, yep.

**Jennifer Webster:** Where are you?

**Rae Skenandore:** I am on 54 of Rulemaking, in the, I am in the, um actually the analysis, not the actual law, apologize, so...

**Krystal John:** Line 328 gives the definition of financial analysis.

**Rae Skenandore:** I am just wondering if you have the internal expertise within all of these agencies to bring forward their own analysis.

**Brandon Stevens:** I would think so...they are dealing with the Rule, so if it's a fee schedule or whatnot, I think they would just know the change of what that would do. So, I don't think it's anything like anything that you guys really do as far as being broader, they are more central as far as what goes on, it's almost like budgeting.

**Rae Skenandore:** But the Land Commission is the authorized agency and the Division of Land Management would be your subject matter experts, so who is responsible for preparing and submitting the analysis, the Commission?

**Brandon Stevens:** The Commission would be, it would seem like Land Management would be because they're the ones who process it.

**Krystal John:** It depends on who is named as the authorized agency in the law, if it's Land Management's rules, then Land Management would do it; if it's the Land Commission's rules, the Commission would do it.

**Brandon Stevens:** Okay.

**Rae Skenandore:** But would the Commission be the authorizing agency over all of the laws?

**Krystal John:** It depends on how the law is written. If the law gives the authority to the Land Commission, then the Land Commission becomes the authorized agency.

**Rae Skenandore:** Okay, I guess we will see as we move forward. Thank you.

**Brandon Stevens:** Yep.

#### *Response.*

This was a policy consideration made by the LOC during the development of the Administrative Rulemaking Law. At that time it was considered whether the LOC wanted the Entities to be required to work with the Finance Department to prepare a fiscal impact statement regarding the proposed Rules prior to sending the Rules to the LOC for a certification of procedural compliance. It was decided that such a requirement would be unduly burdensome and was not necessary for a Rule having a more defined impact than a Law and also because other Entities could submit their own information on how proposed Rules may affect their Entity's budget. For this reason, we chose to call the requirement a financial analysis so that it would not have the same official title as the fiscal impact statement required for laws under the Legislative Procedures Act. It is within the LOC's discretion to revise this policy determination.

#### **Comment 2. Public Meeting Materials Question**

**Matt Denny:** I have a question, um, is the date on here correct, does the date follow the same date as the other two for the public comment period?



**Brandon Stevens:** Oh, you are talking about the 3<sup>rd</sup>, December 3<sup>rd</sup> is on the top?

**Krystal John:** Oh...I printed the wrong packet for this one.

**Brandon Stevens:** Ok, yea you still have the five days, is it five days?

**Krystal John:** You have until the 14<sup>th</sup>.

**Brandon Stevens:** Yea so five days or no until the 14<sup>th</sup>. Ok yea, good catch. I did see it to, I just... Ok yea so, APA.

#### *Response.*

The information provided at the public meeting was correct; the public comment period expired on January 14, 2016. I did verify that the public meeting packet posted online and in the newspaper contained the correct information. The wrong packet was printed for physical distribution at the meeting, which does not impact the requirements of the Legislative Procedures Act. I apologize for any confusion.

### **Comment 3. Authorized Agencies and General Rulemaking Procedure**

17.4-1. *Administrative Rulemaking.* Only Authorized Agencies may promulgate Rules; this Law does not confer Rulemaking Authority. Authorized Agencies shall adhere to the Rulemaking procedures as provided in this Law. Authorized Agencies may promulgate Rules interpreting the provisions of any law enforced or administered by it; provided that, a Rule may not exceed the Rulemaking Authority granted under the law for which the Rule is being promulgated.

- (a) This Law does not apply to standard operating procedures, which for the purposes of this section are statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency.
- (b) Rules developed pursuant to this Law have the same force and effect as the law which delegated the Authorized Agency Rulemaking Authority and must be followed by both the general public and the Authorized Agency promulgating the Rule.

**Rae Skenandore:** So as the Mortgage Law, the Leasing Law, the Foreclosure Law and the Landlord-Tenant Law move forward and are approved, then you need the rules under all of those laws prior to the hearing being transferred over to the Judiciary? Is that correct?

**Brandon Stevens:** I would assume yea, it's kind of like a parallel thing, so it's we'll probably be in communication with those moving forward, yea.

**Rae Skenandore:** So once Rulemaking is approved we need to take all the laws that we are actually working on and, in conjunction with that, develop the Rules? Okay.

#### *Review*

The hearing body authority would transfer to the Judiciary upon the effective date of the law. As we develop new laws the goal should be to have the Rules ready to adopt along with the law, but that is not a requirement of this law. A new law could provide in the adopting resolution that it is effective upon adoption of the Rules if the Law could not exist without the Rules.



## Chapter 17

### Administrative Rulemaking

#### Thotihá·tú lutyánłashu·níhe?

they are the leaders, they are making the laws, policies and rules

17.1. Purpose and Policy  
17.2. Adoption, Amendment, Repeal  
17.3. Definitions  
17.4. General  
17.5. Preparation of Proposed Rules  
17.6. Public Comment Period on Proposed Rules

17.7. Oneida Legislative Operating Committee Certification of  
Procedural Compliance and Business Committee Review  
17.8. Effective Date of Rules  
17.9. Emergency Rules  
17.11. Judicial Review of a Rule

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Administrative Rulemaking				
<b>Requester</b>	LOC (prior term)	<b>Drafter</b>	Krystal John	<b>Analyst</b>	Tani Thurner
<b>Reason for Request</b>	To ensure consistency in how Tribal boards, committees, commissions, departments and officials develop and implement rules in furtherance of the laws and policies they are delegated authority to implement/enforce.				
<b>Purpose</b>	This Law is being requested in order to develop a consistent process for promulgating Tribal Rules, which are created in order to further the goals established in a Tribal law.				
<b>Authorized/ Affected Entities</b>	Legislative Operating Committee (LOC) and Legislative Reference Office (LRO) are given duties under this Law; all Tribal boards, committees, commissions, departments and officials that are delegated "Rulemaking Authority" will be affected when developing or amending rules.				
<b>Due Process</b>	Judicial Review of Rules				
<b>Related Legislation</b>	The Legislative Procedures Act (LPA) identifies a similar process for the promulgation and adoption of Tribal laws.				
<b>Enforcement</b>	Judicial Review of Rules, Rules can be challenged if they are not promulgated in accordance with this Law.				

### Overview

The purpose and policy of the Administrative Rulemaking Law (the Law) are to provide a process for adopting and amending Administrative Rules (Rules) that is efficient, effective and democratic, and to ensure that authorized agencies act responsibly and consistently when enacting and revising Rules. [17.1-1 and 17.1-2]

The Tribe currently has a law in place (the LPA) that establishes a process and requirements for the adoption and amendment of Tribal laws. This proposed Law establishes a process and requirements for adopting and amending Rules promulgated in furtherance of those laws.

This Law does not apply to standard operating procedures, defined as "statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency." [17.4-1]

### The Rulemaking Process

The process for developing, drafting and adopting a Rule is somewhat similar to the process for developing and drafting a Law, with some differences:

- Instead of the LOC, each Authorized Agency is responsible for preparing its own Rules, conducting the required public meetings; receiving comments during the public comment periods, and reviewing/considering all comments received. [17.4 and 17.6]
- A Rule officially goes into effect after the LOC certifies that it was promulgated in

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- 2 accordance with this Law – it does not have to be adopted by OBC/GTC resolution. [17.7]
- 3 • The OBC does not review a Rule until after it has been certified and gone into effect. This
- 4 Law sets out a detailed process for the OBC to repeal/change a Rule within a certain period
- 5 of time. [17.7] However, there is one exception – the OBC is still responsible for adopting
- 6 emergency Rules before they go into effect. [17.9]
- 7 • This Law also provides for standards of review for actions taken pursuant to a Rule –
- 8 enabling a Tribal hearing body or the Judiciary to uphold, or reverse an action, or remand the
- 9 matter for further consideration; but also adding that Authorized Agencies are recognized as
- 10 subject matter experts in a given field, so Tribal hearing bodies are required to provide an
- 11 Authorized Agency with deference by upholding the action taken unless it meets one of the
- 12 criteria listed in this Law. [17.11 and 17.12]
- 13 • This Law also adds a section identifying requirements for seeking Judicial Review of a Rule
- 14 (i.e. seeking to have the Judiciary determine whether a Rule is valid) – and enabling the
- 15 Judiciary to strike down part or all of a Rule if it violates the Tribal Constitution or is
- 16 otherwise unlawful, or if it exceeds the Authorized Agency’s Rulemaking authority.)

### What is a Rule?

17 A Rule is “a set of requirements enacted by an Authorized Agency in order to implement,

18 interpret and/or enforce a law or policy of the Tribe.” [17.3-1(f)]

19 Generally, laws set out broad requirements; but more specific, detailed requirements are

20 needed to actually carry out those requirements. Various Tribal laws delegate authority to

21 specific Tribal “agencies” (which would mean boards, committees, commissions, departments or

22 officers of the Tribe) to administer and/or enforce that law; and this Law authorizes those

23 agencies to develop and adopt rules, in furtherance of those responsibilities.

24 Rules developed pursuant to this Law have the same force and effect as the law which

25 they are promulgated, and must be followed by both the general public and the Authorized

26 Agency that promulgated the Rule. [17.4-1]

### Who can propose/request that a Rule be developed?

27 Only Authorized Agencies may promulgate Rules; and

28 only Rules interpreting a law that the Authorized Agency has been

29 delegated authority to administer or enforce. Rules may not exceed

30 the Rule Making Authority given to the Authorized Agency by

31 that law. This Law does not confer rule making authority. [17.4-1]

### Public Meeting/Comment Requirements for Rules

32 This Law requires public meetings to be held before a Rule

33 can be enacted. The Authorized Agency must publish notice of a

34 public meeting in the Oneida Register and in the Kalihwisaks.

35 [17.6-2(a)] All persons attending a public meeting for a proposed Rule are required to register at

36 the meeting – not just those who provide spoken comments. [17.6-2(f) and LPA 16.8-3(b)]

37 Public Meetings must be audio recorded. [17.6-2(f)] An Authorized Agency may extend

38 a public comment period as it deems appropriate, by posting an amended Notice of Public

39 Meeting before the original comment period ends. [17.6-2(g)]

40 After a public comment period ends, the Agency must prepare a memo identifying every

41 public comment received, along with the Agency’s response to each comment. This memo

42 accompanies the proposed Rule when it is submitted to the LOC for certification, and to the

43 OBC for review. [17.10-1(c)]

### Submission Materials

An “Authorized Agency” is any Tribal board, committee, commission, department or officer that has “Rulemaking Authority” – i.e. authority delegated in a Tribal law to implement, interpret and/or enforce a Tribal law or policy. [17.3-1(a) and (g)]

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When a Rule is presented for public comment, LOC certification or OBC review, it is required to be accompanied by supporting materials, which are combined into one summary report, which must provide an overview of the Rule, [17.5-2] and include:

- A **statement of effect** – this is a legislative and legal analysis, prepared by the Legislative Reference Office (LRO) upon request from the Agency [17.5-2(d)]; which explains the effects the Rule would have on the Tribe. [17.2-5(h)]
- A **financial analysis** – this is prepared by the Authorized Agency, and must include a report from every entity that may be financially affected by the Rule. [17.3-1(c)] If an entity does not provide the requested information within 10 business days the financial analysis may still be submitted, noting which entities were non-responsive to their request. [17.5-2(e)(1)]<sup>1</sup>
- **Public Comment Changes.** As part of the summary report, an Authorized Agency must include “a description of any changes made to the proposed Rule based on the public comment period (if applicable).” Agencies are not required to identify any changes made that were not based on the public comment period. [17.5-2.]

### Emergency Rules

This Law allows for Rules to be enacted on an emergency basis. Like emergency laws, an emergency Rule can be adopted without a public comment period being held first, and is in effect to up to six months, and eligible for a one-time extension of up to six extra months. [17.9]

As with emergency legislation, a proposed emergency rule is first submitted to the LOC and is adopted by the OBC, but for emergency Rules, the LOC is not required to forward the proposal to the OBC - if the LOC determines there is not a valid emergency, it may decline the request.

This Law also specifically authorizes the OBC to make changes to a proposed emergency Rule before adopting it, and adds that if the Authorized Agency does not “support” any revisions made by the OBC, “such concerns may be addressed when the Authorized Agency begins the process for enactment of the permanent Rule.” [17.9-2]

### LOC Certification

Each Authorized Agency ultimately adopts its own Rules (except emergency rules), but

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<sup>1</sup> **Rae Skenandore:** Umm, it also states that when a new Rule is brought forward that there would be a financial analysis, now there is a financial analysis that is done with the law, so this financial analysis, if I am understanding correctly is required by the agency that is developing the Rule, is that correct?

**Brandon Stevens:** Yea, yep.

**Jennifer Webster:** Where are you?

**Rae Skenandore:** I am on 54 of Rulemaking, in the, I am in the, um actually the analysis, not the actual law, apologize, so...

**Krystal John:** Line 328 gives the definition of financial analysis.

**Rae Skenandore:** I am just wondering if you have the internal expertise within all of these agencies to bring forward their own analysis.

**Brandon Stevens:** I would think so...they are dealing with the Rule, so if it's a fee schedule or whatnot, I think they would just know the change of what that would do. So, I don't think it's anything like anything that you guys really do as far as being broader, they are more central as far as what goes on, it's almost like budgeting.

**Rae Skenandore:** But the Land Commission is the authorized agency and the Division of Land Management would be your subject matter experts, so who is responsible for preparing and submitting the analysis, the Commission?

**Brandon Stevens:** The Commission would be, it would seem like Land Management would be because they're the ones who process it.

**Krystal John:** It depends on who is named as the authorized agency in the law, if it's Land Management's rules, then Land Management would do it; if it's the Land Commission's rules, the Commission would do it.

**Brandon Stevens:** Okay.

**Rae Skenandore:** But would the Commission be the authorizing agency over all of the laws?

**Krystal John:** It depends on how the law is written. If the law gives the authority to the Land Commission, then the Land Commission becomes the authorized agency.

**Rae Skenandore:** Okay, I guess we will see as we move forward. Thank you.

**Brandon Stevens:** Yep.



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only after receiving certification from the LOC. Once a Rule has been completely processed and is ready for adoption, the Agency submits the proposed rule, along with the following, to the LOC:

- The Summary Report
- A memo showing the procedural timeline when the requirements of this Law were met)
- Supporting documentation, including: the draft version presented for public comment, the public meeting notice, a redline draft to the current rule (for proposed amendments), minutes from the agency's meeting where the proposed Rule was considered as an agenda item; and any other supporting information that may be requested by the Legislative Reference Office.
- A memo identifying every public comment received and the agency's response to each.
- The effective date for the new Rule or amendments to go into effect. [17.10-1.]

Then, if the Rule was promulgated in accordance with this Law, then the LOC issues a written certification stating such, and publishes the Rule on the Oneida Register. [17.7-2]

The effective date of a Rule is determined by the Authorized Agency, and can be any date after the Rule is certified by the LOC. [17.8]

If the LOC is "unable to certify" that the Agency has complied with this Law, the LOC must return the Rule to the Agency with specific feedback as to what procedural requirements were not met. [17.7-2]

### **OBC Review of Rules**

This Law provides a process for the OBC to review a Rule after it has been certified by the LOC and enacted:

- After the LOC certifies a Rule, it must forward the Rule and supporting materials, along with the LOC's certification, to the OBC for review.
- After review, if the OBC has any concerns or requested revisions, the Authorized Agency "shall work with" the OBC to "address any concerns."
- The Rule already adopted by the Agency will remain in effect as adopted by the Agency unless:
  - The OBC deems it necessary to repeal the Rule, in which case any Rule in effect prior to the repealed Rule is immediately reinstated, or
  - the OBC provides the agency with written notice of intent to repeal or amend the Rule within 30 days after receiving notice of the Rule, and a revised rule is adopted within six months afterwards. 17.7-3(b).
- If the Agency and the OBC agree upon the necessary changes, the Agency must adopt the Revised Rule as agreed upon by the OBC. An agency has "discretion" to conduct an additional public comment period, but is not required to do so.
- If the Agency and OBC do not reach an agreement as to necessary changes, the OBC may adopt a Revised Rule that incorporates the amendments it deems necessary.

If either the OBC or Agency adopts a revised rule within that six-month period, they must provide a final version of the Rule to the LOC. The LOC must then update the Oneida Register with the Rule. 17.7-3(f)

If neither the OBC nor Agency adopts a revised rule within that six month period, then the OBC is precluded from repealing or amending that Rule. This would mean that if the OBC adopts an amended Rule after the six-month period, the amendments could be subject to a legal challenge.

### **Contesting a Rule**

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This Law allows for the Judiciary to render a declaratory judgment as to whether a Rule is valid, in the same way it does for laws, as provided in 150.5-2(e) of the Judiciary Law. [17.11-1]

There is a one-year statute of limitations for contesting a Rule by claiming that it was not promulgated in accordance with this Law. [17.11-3]

### **Standard of Review for Actions taken Pursuant to Administrative Rules**

Any Tribal body hearing an appeal or contest of an action taken pursuant to a Rule; must uphold the action unless it finds that the action either:

- Violated the Tribal Constitution
- Exceeded the agency's Rulemaking Authority
- Was unlawful, clearly erroneous, arbitrary or capricious, or
- Exhibited a procedural irregularity which would be considered a harmful error, that may have contributed to the final decision; and the decision would have been different otherwise.

If the Tribal body finds that the action did any of those, then the Tribal body must either reverse or modify the action taken; or remand the matter for further consideration, if the action was at the second level of appeal. [17.12]

### **New Responsibilities**

- **New Entity Responsibilities:** Every Tribal board, committee, commission, department and officer that is delegated authority in a Tribal law to implement or enforce a Tribal law is now responsible for developing their own rules, and for each rule they are now responsible for: conducting public comment periods, creating a fiscal analysis, and preparing various reports; including memos identifying the procedural timeline, and identifying/responding to every public comment received. [17.5-2 and 17.10-1(a-c)]
- **New LOC Responsibilities:**
  - Developing a form and style for Rules, to be followed by Authorized Agencies. [17.5-1]
  - Reviewing submitted materials and either certifying a Rule when it has been promulgated in accordance with this Law and forwarding it to the OBC, or sending a rejected Rule back to the agency with specific feedback as to which procedural requirements were not fulfilled. [17.7]
  - Publishing certified/final Rules on the Oneida Register. [17.7-2(a) and 17.7-3(f)]
  - Reviewing emergency Rules to determine whether there is a valid emergency. [17.9-1]
- **New LRO Responsibilities:**
  - Creating and maintaining a complete record of all proposed and adopted Rules, including requesting any supporting information. [17.10-1]
  - Creating and updating administrative histories for each rule – identifying the original effective date and the effective date of amendments. [17.10-2]
  - Publishing pre-existing and emergency Rules on the Register. [17.7-3 and 17.9-5]
  - Preparing statements of effect for all Rules, upon request of the Agency. [17.5-2(d)]

### **Other**

Any Rules adopted after this Law goes into effect are valid only if adopted “in substantial compliance” with this Law. Any Rules already in effect when this Law is adopted will remain in effect unless the OBC directs that they be updated, but if they are ever amended, those amendments must follow this law's requirements. [17.4-3]

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It is intended that the adopting Resolution for this Law would require authorized agencies to forward any existing Rules to the Legislative Reference Office within 30 business days after this Law is adopted, and that they would be published on the Oneida Register within 30 business days after that.

The LPA was adopted by General Tribal Council (GTC) and can only be amended by GTC; this Law would be adopted by the Oneida Business Committee (OBC) and could only be amended or repealed by the OBC. [17.2-1 and 17.2-2]

This Law only requires Rules to follow the same numbering format as laws; and delegates authority to the LOC to establish additional form and style requirements. [17.5-1]

Rules already in effect when this Law is adopted will remain in effect unless the OBC directs that a Rule be updated “based on this Law’s requirements;” but any future amendments to existing Rules must follow the requirements of this Law. [17.4-3]

The Law requires Authorized Agencies to forward any Rules already in effect to the Legislative Reference Office within 30 days after this law is adopted; and the LRO will publish all such Rules on the Oneida Register within 30 days of receiving them. [17.4-3(a)]

**A public meeting has not been held.<sup>2</sup>**

### Considerations

The following are issues the LOC may want to consider:

- This Law gives authority to authorized agencies, meaning Tribal boards, committees and commissions, officers and departments. However, it is not clear if this would include OBC standing committees, because although those might be committees, they are not elected or appointed, technically. Recommend that this law clarify whether the intent is for this to apply to standing committees – to the LOC in particular, since it is delegated authority under this Law and under the LPA.
- Various existing Tribal laws set out processes or requirements for the adoption of regulations/rules, which will now be in conflict with this Law. It may be beneficial for the LOC to make a policy call determining how to address the numerous conflicting provisions that may exist if this is adopted.
- The Law is focused on the delegation of authority to administer a law, but occasionally refers to delegation of rulemaking authority under laws and policies. It may be beneficial to determine whether the intent is to allow rulemaking authority under Tribal policies, and if so, to ensure this Law consistently references both equally. For example, see 17.3-1(g) – ““Rulemaking Authority” means the delegation of authority to Authorized Agencies found in the Tribe’s **laws other than this Law** which allow Authorized Agencies to implement, interpret and/or enforce a **law or policy** of the Tribe.”
- The provisions relating to Judicial Review of a Rule (section 17.11) and Standard of Review (section 17.12) may need additional consideration and it is recommended that a legal review be obtained before this Law is adopted. Various issues include:
  - This Law does not identify whether judicial review actions are appealable.
  - 17.12-2 states that when hearing an appeal or “contest of an action” the hearing body must

<sup>2</sup> **Matt Denny:** I have a question, um, is the date on here correct, does the date follow the same date as the other two for the public comment period?

**Brandon Stevens:** Oh, you are talking about the 3<sup>rd</sup>, December 3<sup>rd</sup> is on the top?

**Krystal John:** Oh...I printed the wrong packet for this one.

**Brandon Stevens:** Ok, yea you still have the five days, is it five days?

**Krystal John:** You have until the 14<sup>th</sup>.

**Brandon Stevens:** Yea so five days or no until the 14<sup>th</sup>. Ok yea, good catch. I did see it to, I just... Ok yea so, APA.



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- 206 uphold the action unless it exhibited “a procedural irregularity which would be considered a  
207 harmful error that may have contributed to the final decision and if said irregularity were not  
208 present, the decision would have been different.” However, this appears to be mixing actions  
209 and decisions – the hearing body must uphold an action unless the action “exhibited a  
210 procedural irregularity that may have contributed to the final decision” – It may be difficult  
211 for a reader to interpret or understand how this applies.
- 212 • The provisions governing how the OBC can amend a Rule may need review:
    - 213 ○ An authorized agency has “discretion” to conduct an additional public comment period if the  
214 OBC requested substantial revisions, but is not required to do so. This appears to mean that  
215 the Agency is not required to follow the standard process for amending Rules.
    - 216 ○ The law is not clear on the process for the OBC to adopt an amended Rule [17.7-3] – this  
217 Law sets out a detailed process for Rulemaking, and if the OBC is authorized to amend a  
218 Rule after it has been adopted by an Agency, the Law may need to identify which parts of the  
219 process would be necessary.
  - 220 • When the LPA is next amended, it is also recommended that the definition of the Oneida Register be  
221 revised to state that it includes agency “Rules” instead of agency regulations, to reflect this Law.
  - 222 • There are various issues related to the definitions for Authorized Agency and the Rulemaking  
223 Authority, including:
    - 224 ○ Various laws and policies give authority to an entity to establish fee or penalty schedules –  
225 are those considered Rules?
    - 226 ○ How would one be able to tell if the Rule Making Authority exceeds the authority given to  
227 the Agency by law? How does one identify if a Rule delegates rulemaking authority?
    - 228 ○ Who exactly is delegated authority as an authorized agency – this is particularly important  
229 because some Tribal laws identify specific authorization for an entity to establish specific  
230 types of Rules relating to the Law, but not all types of Rules relating to the Law.
    - 231 ○ 17.4-1 says only Authorized Agencies may promulgate Rules. This could be construed as  
232 prohibiting the OBC from promulgating Rules.
    - 233 ○ The definition of Rulemaking Authority is “the delegation of authority to Authorized  
234 Agencies found in the Tribe’s laws other than this Law which allow Authorized Agencies to  
235 implement, interpret and/or enforce a law or policy of the Tribe.” [17.3-1(g)] Then, 17.5-1  
236 states: “In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the  
237 form and style required by the Legislative Operating Committee.” Although this looks like it  
238 might be giving the LOC rulemaking authority, it is unclear, because that is delegating  
239 authority in this Law, not a law “other than this Law”.
    - 240 ○ This Law is titled “Administrative Rulemaking” and then the term “administrative Rules” is  
241 used in the Purpose and Policy section, and once in the title for 17.4-1. The word  
242 “administrative” is not defined and is never used again – just “Rule” For clarity it may be  
243 beneficial to explain what an administrative rule is, otherwise, to delete “administrative”  
244 altogether and just use “Rule” throughout the Law.
  - 245 • It appears that emergency Rules could not be adopted as quickly as an emergency law, because a Law  
246 can be presented for emergency adoption without a fiscal impact statement, but this Law requires a  
247 summary report to be presented with a draft emergency Rule; and a fiscal analysis is part of the  
248 summary report.
    - 249 ○ For a fiscal analysis, the agency is required to include information submitted by every  
250 potentially affected entity, and entities are given ten business days to submit such information  
251 - this may hold up the process of a speedy emergency adoption.
    - 252 ○ A statement of effect is also part of the summary report which must be presented with a  
253 proposed emergency Rule. The statement of effect is prepared by the Legislative Reference  
254 Office, upon request of the Agency. This means the Agency must request the statement of  
255 effect, wait to obtain it, and then include it in the summary report which is then submitted

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- with the Rule. This may also add to the length of time needed to adopt an emergency Rule.
- Under the LPA, a fiscal impact statement is not required to be provided with the materials that are presented for a public meeting for a proposed law; although it can be included if it is available. By comparison, this Law requires the full summary report (which includes the fiscal analysis) to be attached to a Rule when it is presented for public meeting. This means that the fiscal analysis must be presented with a Rule, for all public meetings. This is a policy call.
  - 17.10-1(a)(4) When a Rule is submitted to the LOC for certification, it must include “Minutes from the agency’s meeting during which the proposed Rule was considered as an agenda item” – however, this requirement does not recognize that authorized agencies are not just Tribal boards, committees or commissions – Tribal departments and officers can also promulgate Rules, and Tribal departments, at least generally do not have minutes, meetings or agendas.
  - 17.5-2 states that the “Authorized Agency shall prepare a summary report regarding each proposed Rule, which must be attached to the proposed Rule when presented for public comment and for approval through the [LOC] and ultimately the [OBC].” This sentence may be misleading – Rules are presented for LOC certification, not approval, and OBC approval is not required.
  - 17.5-1 states: “In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the form and style required by the Legislative Operating Committee.” It may be beneficial to require actual compliance, not substantial compliance. Otherwise, it may be helpful to identify what would be considered “substantial” compliance, since this permits some deviation.
  - 17.6-2(b) requires the published notice to include “information for electronically accessing the summary report” - This provision only requires that the membership be told how to access materials online, which may cause problems for members without access to the internet. This is a policy call.
  - 17-9: Emergency Rules are first submitted to the LOC, who must determine whether there is a valid emergency, and if they determine there is, then they must forward the materials to the OBC, who must then determine whether there is a valid emergency, and if so, must adopt the Rule, with or without revisions. It is not clear why the LOC must first review the Rule to determine whether there is a valid emergency, if the OBC is then going to do the same thing again. Especially when there is an emergency situation where a Rule must be implemented quickly.
  - 17.3-1(c) The definition for a financial analysis is word-for-word the same as the LPA’s definition for a fiscal impact statement. But it requires a different process and additional requirements which are not also mentioned in the definition – under this Law, a financial analysis would also include a report from all potentially affected entities, identifying how they would be affected. However, this is not mentioned in the definition.

There are additional, minor, language-related issues which will be brought to the sponsor for consideration, and which may result in additional changes to the draft.

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## Chapter 17

### Administrative Rulemaking

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#### 17.1. Purpose and Policy

17.1-1. *Purpose.* The purpose of this Law is to provide a process for the adoption and amendment of administrative Rules.

17.1-2. *Policy.* It is the policy of the Tribe to ensure:

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(a) There is an efficient, effective and democratic process for enacting and revising administrative Rules.

(b) That Authorized Agencies act in a responsible and consistent manner when enacting and revising the administrative Rules.

## **17.2. Adoption, Amendment, Repeal**

17.2-1. This Law was adopted by the Oneida Business Committee by resolution \_\_\_\_\_.

17.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

17.2-3. 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.

17.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law control.

17.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

## **17.3. Definitions**

17.3-1. This Section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday use.

(a) “Authorized Agency” means any board, committee, commission, department, or officer of the Tribe that has been granted Rulemaking Authority.

(b) “Business Day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Tribe.

(c) “Financial Analysis” means an estimate of the total fiscal year financial effects associated with a proposed Rule prepared by the Authorized Agency proposing the Rule. It includes startup costs, personnel, office, documentation costs, an estimate of the amount of time necessary for an individual or agency to comply with the Rule after implementation.

(d) “Entity” means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the majority of the Tribe’s eligible voters and also any department of the Tribe.

(e) “Oneida Register” means the free legal periodical published on the Tribe’s website by the Legislative Operating Committee which contains, at a minimum, agency Rules, proposed legislation and notices, and either the Oneida Code of Laws or directions to obtain free access to the Oneida Code of Laws.

(f) “Rule” means a set of requirements enacted by an Authorized Agency in order to implement, interpret and/or enforce a law or policy of the Tribe.

(g) “Rulemaking Authority” means the delegation of authority to Authorized Agencies found in the Tribe’s laws other than this Law which allows Authorized Agencies to implement, interpret and/or enforce a law or policy of the Tribe.



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(h) “Statement of Effect” means a legislative and legal analysis which explains the effects that adopting a Rule would have on the Tribe.

(i) “Tribe” means the Oneida Tribe of Indians of Wisconsin.

#### 17.4. General

17.4-1. *Administrative Rulemaking.* Only Authorized Agencies may promulgate Rules; this Law does not confer Rulemaking Authority. Authorized Agencies shall adhere to the Rulemaking procedures as provided in this Law. Authorized Agencies may promulgate Rules interpreting the provisions of any law enforced or administered by it; provided that, a Rule may not exceed the Rulemaking Authority granted under the law for which the Rule is being promulgated.

(a) This Law does not apply to standard operating procedures, which for the purposes of this section are statements, interpretations, decisions, rules, regulations, policies, procedures or other matters concerning internal management of an agency, which do not affect the private rights or interests of individuals outside of the agency.

(b) Rules developed pursuant to this Law have the same force and effect as the law which delegated the Authorized Agency Rulemaking Authority and must be followed by both the general public and the Authorized Agency promulgating the Rule.<sup>3</sup>

17.4-2. *Authorized Agency Solicitation of Comment on General Subject Matter.* For the purpose of soliciting public comment, an Authorized Agency may hold a public meeting on the general subject matter of a possible or anticipated Rule before preparing a proposed Rule. However, a public meeting under this subsection does not satisfy the requirements of Section 17.6 hereof with respect to promulgation of a specific proposed Rule.

17.4-3. *Substantial Compliance.* Any Rule hereafter adopted is valid only if adopted in substantial compliance with this Law, however Rules already in effect at the time of this Law’s adoption remain in effect unless directed to be updated based on this Law’s requirements by the Oneida Business Committee. Any amendments made to Rules already in effect must follow the requirements of this Law.

#### 17.5. Preparation of Proposed Rules

17.5-1. *Form and Style.* In preparing a proposed Rule, Authorized Agencies shall substantially adhere to the form and style required by the Legislative Operating Committee.

(a) At a minimum, all Rules must be numbered in the following consistent manner “1-1(a)(1)(A)(i)” where:

- (1) “1-1” means the first section.
- (2) “(a)” means the first subsection.
- (3) “(1)” means the second subsection.
- (4) “(A)” means the third subsection.

<sup>3</sup> **Rae Skenandore:** So as the Mortgage Law, the Leasing Law, the Foreclosure Law and the Landlord-Tenant Law move forward and are approved, then you need the rules under all of those laws prior to the hearing being transferred over to the Judiciary? Is that correct?

**Brandon Stevens:** I would assume yea, it’s kind of like a parallel thing, so it’s we’ll probably be in communication with those moving forward, yea.

**Rae Skenandore:** So once Rulemaking is approved we need to take all the laws that we are actually working on and, in conjunction with that, develop the Rules? Okay.

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(5) “(i)” means the fourth subsection.

(6) All other numbering after the fourth subsection must be in a logical manner.

17.5-2. *Summary Report.* The Authorized Agency shall prepare a summary report regarding each proposed Rule, which must be attached to the proposed Rule when presented for public comment and for approval through the Oneida Legislative Operating Committee and ultimately the Oneida Business Committee. The summary report must include:

(a) the name of the proposed Rule;

(b) a reference to the law that the proposed Rule interprets, along with a list of any other related laws, policies or rules that may be affected by the proposed Rule;

(c) a brief summary of the proposed Rule and any changes made to the proposed Rule based on the public comment period required by Section 17.6 hereof, if applicable;

(d) a Statement of Effect for the Rule which the Legislative Reference Office shall prepare upon request by the Authorized Agency; and

(e) the Financial Analysis, for which the Authorized Agency shall send a written request to each Entity that may be affected by the proposed Rule soliciting information on how the proposed Rule would financially affect the Entity; each Entity’s response indicating its financial affects must be included in the Financial Analysis.

(1) If an Authorized Agency does not receive a response from one (1) or more Entities regarding its request for the Entities’ financial affects of the Rule within ten (10) business days of the date of the request, it may submit a Financial Analysis noting which Entities were non-responsive to its request.

## **17.6. Public Comment Period on Proposed Rules**

17.6-1. A proposed Rule, except a Rule promulgated under the emergency Rules exemptions under Section 17.9, must be preceded by a public comment period, which must include a public meeting. Nothing in this Section prohibits or restricts the holding of any other type of community meeting which may be used to gather input on Rules.

17.6-2. *Public Meetings.* When a public meeting on a proposed Rule is scheduled by an Authorized Agency, it must be held in accordance with the following requirements.

(a) The Authorized Agency shall set a date for the public meeting and have the notice published in the Kalihwisaks and in the Oneida Register not less than ten (10) business days prior to the meeting.

(b) The notice must include:

(1) information for electronically accessing the summary report required under Section 17.5-2;

(2) the date, time, and place of the scheduled public meeting; and

(3) the name, address, phone number, and other appropriate information to submit written comments on the Rule and the time period during which the Authorized Agency shall accept comments.

(c) The Authorized Agency shall hold a public meeting at the date, time and place designated in the meeting notice.

(d) The Authorized Agency holding the public meeting shall have a representative to preside at the meeting who shall briefly describe the Rule which is the subject of the public meeting and the nature of the Rule’s requirements, and then open the meeting for

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428 comments. The Authorized Agency's presiding representative is not required to  
429 comment or respond to comments at the meeting, but may, at his/her discretion, offer  
430 clarity.

431 (e) *Registration*. The Authorized Agency shall create and bring to the public meeting a  
432 sign-in sheet; persons attending the public meeting shall register at the meeting by  
433 signing the sign-in sheet.

434 (f) The Authorized Agency shall audio record the public meeting and persons who  
435 provide oral comments shall state their name for the record.

436 (g) The Authorized Agency shall hold the record open for the submission of written  
437 comments for a minimum of five (5) business days following the public meeting,  
438 provided that, the Authorized Agency may extend the comment period as it deems  
439 appropriate by posting an amended Notice of Public Meeting based on the notice  
440 requirements found in Section 17.6-2(b) at any time prior to the close of the original  
441 public comment period which identifies the extended comment period ending date.

442 17.6-3. *Public Comments*. The Authorized Agency shall fully consider all comments received  
443 during the public comment period and during any public meeting held regarding a proposed  
444 Rule.

445  
446 **17.7. Oneida Legislative Operating Committee Certification of Procedural Compliance**  
447 **and Business Committee Review**

448 17.7-1. After a public meeting is held and the public comment period has expired, the  
449 Authorized Agency shall submit the proposed Rule and the items it must contribute for the  
450 administrative record pursuant to Section 17.10 to the Legislative Operating Committee, which is  
451 responsible for certifying that promulgation of the Rule complies with the procedural  
452 requirements contained in this Law.

453 17.7-2. Upon receipt of a complete submission, as required by this Section, the Legislative  
454 Operating Committee shall take one (1) of the following actions:

455 (a) If the Legislative Operating Committee is able to certify that the Authorized Agency  
456 has complied herewith, it shall forward items (b) and (c) of the Administrative Record  
457 under Section 17.10 received by the Legislative Operating Committee to the Oneida  
458 Business Committee with a written certification that the requirements of this Law have  
459 been fulfilled, and shall publish the Rule on the Oneida Register; or

460 (b) If the Legislative Operating Committee is not able to certify that the Authorized  
461 Agency has complied herewith, it shall return the proposed Rule to the Authorized  
462 Agency with specific feedback as to which procedural requirements were not fulfilled by  
463 the Authorized Agency.

464 17.7-3. The Oneida Business Committee shall review the proposed Rule, the summary report,  
465 the memorandum containing the public comments that were received, both orally and written,  
466 and the Authorized Agency's response to each comment, and the Legislative Operating  
467 Committee's certification of compliance. If upon review the Oneida Business Committee has  
468 any concerns and/or requested revisions to the Rule, the Authorized Agency shall work with the  
469 Oneida Business Committee to address any concerns.



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(a) Unless the Oneida Business Committee repeals the Rule, the Rule will remain in effect while the Authorized Agency and the Oneida Business Committee jointly work to amend the existing Rule.

(1) Should the Oneida Business Committee repeal the Rule adopted by the Authorized Agency, the Rule that was in effect immediately previous to those repealed, if any, will be automatically reinstated and effective immediately upon the repeal of the Rule adopted by the Authorized Agency.

(b) If the Authorized Agency does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rule within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rule, the Rule will remain in effect as submitted and certified by the Legislative Operating Committee.

(c) Should the Oneida Business Committee pursue amendments to the Rule, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(1) if the Authorized Agency and the Oneida Business Committee reach an agreement as to the content of the amendments, the Authorized Agency shall adopt the revised Rule that has been discussed with and agreed upon by the Oneida Business Committee; or

(2) if the Authorized Agency and the Oneida Business Committee do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt a revised Rule that incorporates the amendments it deems necessary.

(d) If substantial revisions are requested by the Oneida Business Committee, where the consideration of a substantial revision is in the Authorized Agency's best informed discretion, the Authorized Agency shall hold an additional public comment period, which would restart the process beginning in Section 17.6 hereof.

(e) If a revised Rule is not adopted by either the Authorized Agency or the Oneida Business Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rule originally adopted by the Authorized Agency will remain in effect.

(f) If revisions are made to the Rule by either the Authorized Agency or the Oneida Business Committee, such party making the revisions shall provide a final version of the Rule to the Legislative Operating Committee. Upon receipt, the Legislative Operating Committee shall update the Oneida Register with the final version of the Rule.

## **17.8. Effective Date of Rules**

17.8-1. The Authorized Agency shall determine a Rule's effective date, provided that a Rule may not become effective until the Legislative Operating Committee has provided the Authorized Agency with the written certification required by Section 17.7-2(a). A failure to publish an approved Rule by its effective date does not change the effective date of the Rule.

## **17.9. Emergency Rules**

17.9-1. An Authorized Agency may present the Oneida Legislative Operating Committee with a proposed emergency Rule without a public comment period being held if it finds there is an

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emergency situation that requires the enactment or amendment of a Rule for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment is required sooner than would be possible under the normal Rulemaking process. The Legislative Operating Committee shall review the proposed emergency Rule, the summary report and the reasoning suggested for the emergency situation and take one (1) of the following actions:

(a) reject the proposed emergency Rule on the basis that there is not a valid emergency; or

(b) accept that there is a valid basis for an emergency and forward the emergency Rule to the Oneida Business Committee.

17.9-2. If the proposed emergency Rule is forwarded to the Oneida Business Committee, the Oneida Business Committee shall review the proposed emergency Rule, the summary report and the reasoning suggested for the emergency situation and take one (1) of the following actions:

(a) reject the proposed emergency Rule on the basis that there is not a valid emergency; or

(b) accept that there is a valid basis for an emergency and adopt, by motion, the emergency Rule, provided that, if the Oneida Business Committee deems it necessary, it may make revisions to the emergency Rule.

(1) If the Oneida Business Committee makes revisions to the emergency Rule that the Authorized Agency does not support, such concerns may be addressed when the Authorized Agency begins the process for enactment of the permanent Rule.

17.9-3. An emergency Rule becomes effective immediately upon its adoption by the Oneida Business Committee and remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency extension of up to six (6) months. Requests for the one-time emergency extension may be brought by the Authorized Agency directly to the Oneida Business Committee for consideration and shall become effective upon the Oneida Business Committee's approval and adoption by motion. An emergency Rule will:

(a) expire when six (6) months have passed since the emergency Rule went into effect and an emergency Rule extension has not been approved; or

(b) expire when six (6) months have passed since the emergency Rule extension went into effect; or

(c) no longer be in effect when a Rule is permanently adopted in the emergency Rule's place before the emergency Rule expires under (a) or (b).

17.9-4. As soon as possible after emergency adoption, and if permanent adoption is desired, the Authorized Agency shall follow the regular procedures as provided under this Law to adopt the permanent Rule.

17.9-5. The Legislative Operating Committee shall publish the emergency Rule in the Oneida Register.

## **17.10. Creating and Maintaining an Administrative Record of Rules**

17.10-1. The Legislative Reference Office, with information the Authorized Agencies shall provide, shall create and maintain a complete record of all proposed and adopted Rules, which must include the following:

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(a) A memorandum provided by the Authorized Agency containing the Rule's procedural timeline including the dates the requirements of this Law were fulfilled by the Authorized Agency and any supporting documentation, which includes, but is not limited to:

- (1) Drafts of the Rule considered for the required Public Meeting;
- (2) The Public Meeting notice;
- (3) If the Rule is being amended, redline drafts from the currently effective Rule;
- (4) Minutes from the agency's meeting during which the proposed Rule was considered as an agenda item; and
- (5) Any other supporting information that may be requested by the Legislative Reference Office;

(b) The summary report required under Section 17.5-2 provided by the Authorized Agency;

(c) A memorandum provided by the Authorized Agency containing the public comments that were received, both orally and written, and the Authorized Agency's response to each comment; and

(d) The effective dates of the original Rules and any Rule amendments subsequently made as established by the Authorized Agency.

17.10-2. Prior to publishing approved Rules on the Oneida Register under either Section 17.7-3(f) or 17.9-5, the Legislative Reference Office shall create and/or update the administrative history on each Rule which must include the original effective date of the Rule and the effective date of any amendments made to the Rule.

### **17.11. Judicial Review of a Rule**

17.11-1. The Judiciary may render a declaratory judgment to determine the validity of a Rule in the same manner that the Judiciary may do so for a Law; as identified in section 150.5-2(e) of the Judiciary Law. Provided that, no Rule may be contested based on non-compliance with the procedural requirements of this Law after one (1) year has elapsed from the effective date of the Rule.

17.11-2. Upon the Authorized Agency's receipt of notice that an appeal has been filed regarding a Rule of the said agency, the Authorized Agency that promulgated the Rule shall request the Administrative Record of the Rule created under Section 17.10 and shall submit the said record to the Oneida Judiciary.

### **17.12. Standard of Review for Actions Taken by Authorized Agencies**

17.12-1. Any Tribal body hearing an appeal or contest of an action taken pursuant to Rules created under Authorized Agencies delegated authority and the requirements of this Law, upon consideration of the Rule and the circumstances regarding the action taken may take any one (1) of the following actions:

- (a) Uphold the action taken;
- (b) Reverse or modify the action taken;
- (c) If at the second level of appeal, remand the matter for further consideration.

17.12-2. When hearing an appeal or contest of an action as described in this Section, the Tribal hearing body shall recognize that the Authorized Agency is accepted by the Tribe as the subject



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601 matter expert in the given field and shall provide the Authorized Agency with deference by  
602 upholding the action unless it finds that the action:

603 (a) Amounts to a violation of the Tribe's Constitution;

604 (b) Was in excess of the Authorized Agency's Rulemaking Authority or is otherwise  
605 unlawful;

606 (c) Was clearly erroneous in view of the entire administrative and factual records; or

607 (d) Was arbitrary or capricious; or

608 (e) Exhibited a procedural irregularity which would be considered a harmful error that  
609 may have contributed to the final decision and if said irregularity were not present, the  
610 decision would have been different.

611  
612 *End.*  
613  
614

---

**Legislative Reference Office**

P.O. Box 365  
Oneida, WI 54155  
(920) 869-4375  
(800) 236-2214

**Committee Members**

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

## LEGISLATIVE OPERATING COMMITTEE

Public Meeting on the Comprehensive Policy Governing Boards Committees and Commissions  
Amendments, the Administrative Rulemaking Law, and the Administrative Procedures Act Amendments  
Business Committee Conference Room-2<sup>nd</sup> Floor  
Norbert Hill Center  
January 7, 2016 12:15 p.m.

**PRESENT:** Brandon Stevens, Jennifer Webster, Rae Skenandore, Matt Denny, Rhiannon Metoxen, Maureen Perkins, Tani Thurner, Douglass McIntyre and Krystal John.

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### Administrative Rulemaking

**Brandon Stevens:** So does anyone have any questions? There may be, but we will move on to the APA.

**Matt Denny:** I have a question, um, is the date on here correct, does the date follow the same date as the other two for the public comment period?

**Brandon Stevens:** Oh, you are talking about the 3<sup>rd</sup>, December 3<sup>rd</sup> is on the top?

**Krystal John:** Oh...I printed the wrong packet for this one.

**Brandon Stevens:** Ok, yea you still have the five days, is it five days?

**Krystal John:** You have until the 14<sup>th</sup>.

**Brandon Stevens:** Yea so five days or no until the 14<sup>th</sup>. Ok yea, good catch. I did see it to, I just... Ok yea so, APA.

**Rae Skenandore:** So as the Mortgage Law, the Leasing Law, the Foreclosure Law and the Landlord-Tenant Law move forward and are approved, then you need the rules under all of those laws prior to the hearing being transferred over to the Judiciary? Is that correct?

**Brandon Stevens:** I would assume yea, it's kind of like a parallel thing, so it's we'll probably be in communication with those moving forward, yea.

**Rae Skenandore:** So once Rulemaking is approved we need to take all the laws that we are actually working on and, in conjunction with that, develop the Rules? Okay. Umm, it also states that when a new Rule is brought forward that there would be a financial analysis, now there is a

financial analysis that is done with the law, so this financial analysis, if I am understanding correctly is required by the agency that is developing the Rule, is that correct?

**Brandon Stevens:** Yea, yep.

**Jennifer Webster:** Where are you?

**Rae Skenandore:** I am on 54 of Rulemaking, in the, I am in the, um actually the analysis, not the actual law, apologize, so...

**Krystal John:** Line 328 gives the definition of financial analysis.

**Rae Skenandore:** I am just wondering if you have the internal expertise within all of these agencies to bring forward their own analysis.

**Brandon Stevens:** I would think so...they are dealing with the Rule, so if it's a fee schedule or whatnot, I think they would just know the change of what that would do. So, I don't think it's anything like anything that you guys really do as far as being broader, they are more central as far as what goes on, it's almost like budgeting.

**Rae Skenandore:** But the Land Commission is the authorized agency and the Division of Land Management would be your subject matter experts, so who is responsible for preparing and submitting the analysis, the Commission?

**Brandon Stevens:** The Commission would be, it would seem like Land Management would be because they're the ones who process it.

**Krystal John:** It depends on who is named as the authorized agency in the law, if it's Land Management's rules, then Land Management would do it; if it's the Land Commission's rules, the Commission would do it.

**Brandon Stevens:** Okay.

**Rae Skenandore:** But would the Commission be the authorizing agency over all of the laws?

**Krystal John:** It depends on how the law is written. If the law gives the authority to the Land Commission, then the Land Commission becomes the authorized agency.

**Rae Skenandore:** Okay, I guess we will see as we move forward. Thank you.

**Brandon Stevens:** Yep.

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# Legislative Operating Committee

## February 3, 2016

# Comprehensive Policy Governing Boards, Committees and Commissions Amendments

**Submission Date:** 9/17/14

☐ Public Meeting:  
☐ Emergency Enacted:  
 Expires:

**LOC Sponsor:** Jennifer Webster

**Summary:** *This item was carried over into the current term by the LOC. Amendments were requested to: prohibit individuals from serving on multiple boards, committees and commissions at one time; set term limits; and prohibit Tribal employees from serving on tribal boards, committees and commissions. In addition, the OBC directs that the appointment process be reviewed.*

**9/10/14 OBC:** Motion by Lisa Summers to direct the Tribal Secretary's Office to send formal correspondence to the Land Claims Commission requiring them to submit their reports by Friday and to request the LOC to bring back a recommendation on how to amend the Comprehensive Policy Governing Boards, Committees, and Commissions to include the withholding of stipends payments to Boards, Committees, and Commissions who do not provide their reports in a timely manner, seconded by Fawn Billie. Motion carried unanimously.

**9/17/14 LOC:** Motion by Jennifer Webster to add the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

*Note: Jennifer Webster will be the sponsor for this item.*

**4/22/15 OBC:** Motion by Lisa Summers to direct the Comprehensive Policy Governing Boards, Committees, and Commissions appointment process be sent back to the Legislative Operating Committee for amendments and to bring back a recommendation on clarifying the process, seconded by Fawn Billie. Motion carried unanimously.

**5/6/15 LOC:** Motion by Jennifer Webster to defer the Comprehensive Policy Governing Boards, Committees and Commission to a Legislative Operating Committee work meeting; seconded by David P. Jordan, motion carried unanimously.

**5/27/15 OBC:** Motion by Jennifer Webster to accept the report from the Secretary's Office as information and to request the LOC to make the necessary policy amendments to the Comprehensive Policy Governing Boards, Committees and Commissions to address this issue, seconded by Lisa Summers. Motion carried unanimously.

**6/8/15:** Work Meeting held. Attendees: Danelle Wilson, Melanie Burkhart, Brandon Stevens, Rae Skenandore, David Jordan, Jacob Metoxen, Tehassi Hill, Fawn Billie, Jenny Webster, Kathy Metoxen, Candice Skenandore, Tani Thurner, Fawn Cottrell, Lynn Franzmeier, Daril Peters, Jordan Rasmussen.



- 8/4/15:** OBC Work Meeting held. Attendees: Jennifer Webster, Trish King, Tina Danforth, Tehassi Hill, David P. Jordan, Fawn Billie, Fawn Cottrell, Dawn Moon-Kopetsky, Krystal John, Tani Thurner.
- 10/21/15 LOC:** Motion by Fawn Billie to defer the Comprehensive Policy Governing Boards, Committees and Commissions Amendments to the sponsor to address the concerns and considerations and to prepare for a December 3, 2015 public meeting; seconded by David P. Jordan. Motion carried unanimously.
- 11/4/15 LOC:** Motion by Jennifer Webster to forward the draft of Comprehensive Policy Governing Boards, Committees and Commissions Amendments with the noted changes to a public meeting held on December 3, 2015; seconded by Tehassi Hill. Motion carried unanimously.
- 12/16/15 LOC:** Motion by David P. Jordan to enter the Administrative Rulemaking Law and Comprehensive Policy Governing Boards, Committees and Commissions Amendments e-poll into the record; seconded by Jennifer Webster. Motion carried unanimously.

**Next Steps:**

- Accept the oral comments received at the Public Meeting held on January 7, 2016 and the written comments received within the public comment period which expired on January 14, 2016 and defer consideration of the comments to a work meeting to be held on February 5, 2016 from 10:00 am – 12:00 p.m. in the BC Executive Conference Room.

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

Krystal L. John, Staff Attorney  
Douglass A. McIntyre, Staff Attorney  
Taniquele J. Thurner, Legislative Analyst  
Maureen Perkins, LTE 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 (LOC)  
**FROM:** Krystal L. John, Staff Attorney *[Signature]*  
**DATE:** February 3, 2016  
**RE:** Comprehensive Policy Governing Boards, Committees and Commissions: Public Meeting Comment Review

---

On January 7, 2016, a public meeting was held regarding amendments to the Comprehensive Policy Governing Boards, Committees and Commissions that:

- Addresses what happens when the OBC rejects a person selected by the Tribal Chair for appointment to a Tribal board, committee or commission (hereinafter: entity).
- Clarifies that a member's status as an elected or appointed official is based on the status of the entity, regardless of whether the member is appointed or elected.
- Adds new provisions that enable entities to make recommendations to the Chair regarding appointments to their entity, and that also enable appointed entities to seek termination of appointment for one its members for specific misconduct.
- Updates the requirements for what notice must be provided to applicants seeking appointment or election.
- Changes the requirements for how the Secretary must post notice of vacancies.
- Changes the requirements for what an entity's bylaws must contain, including the addition of detailed reporting requirements.

This memorandum is submitted as a review of the oral comments received during the public meeting process and the written comments received within the public comment period. The public meeting draft with oral and written comments is attached for your review.

**Comment 1. Purpose and Policy**

1-1. It is the purpose of this Policy to govern the standard procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

**Lisa Summers:** *written* - I agree with the clarification that this policy applies to both appointed and elected boards, committees, and commissions.

*No Response*

**Comment 2. A Conflict Between this Policy and another Law or Policy**

2-4. In the event of a conflict between a provision of this Policy and a provision of another law or policy, this Policy controls, provided that the requirements of the Oneida Nation Gaming Ordinance supersede the provisions of this Policy in regards to the Oneida Gaming Commission.

**Lisa Summers:** *written* - With the deletion of 2-4. of the current law, how will this policy address the stipend inconsistencies? 2-4.

*Response*

Based on the information submitted by Tribal Boards, Committees and Commissions for their annual reports, all stipends are currently compliant with the requirements of this Policy. No changes were made to the stipends requirements in these amendments. For that reason, the language that was previously included in article 2-4, "Provided that meeting stipends for elected members of a board, committee or commission that are in effect on [adoption date of the amendments] shall remain unaffected, but prior exceptions to this policy for appointed entities shall be repealed to extent that meeting stipends are inconsistent with this policy" is no longer necessary.

I do want to point out that the information provided by the Child Protective Board for the annual reports indicates a stipend of \$50.00, which complies with this Policy, but its bylaws provide a stipend of \$75.00, which does not comply. Even with the potential conflict with the Child Protective Board's bylaws, such information would not be necessary. Rather the Child Protective Board's bylaws should be updated to comply with this Policy, which will be required to implement the amendments regardless.

**Comment 3. Add a Word to Definition of Application**

a. "Application" means the form by which a person seeks to be appointed to a Vacancy or considered as a candidate for an election.

**Lisa Summers:** *written* - Insert "fill"

*Response*

The sentence is grammatically either way, but we could certainly add the word fill if it would please the Secretary and the LOC.

**Comment 4. Training v. Conference**

d. "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.

**Lisa Summers:** *written* - I suggest adding the definition of "Training" instead of expanding the conference definition. Trainings may be mandatory and should be considered separately from seminars, meetings, etc.



*Response*

Trainings may also be mandatory for a board, committee or commission, but trainings are generally of a different nature than the standard definition of a conference. The word training may not need to be defined, but could be mentioned separately when conferences are mentioned because I doubt we would be deviating from the ordinary and everyday use of the word training.

**Comment 5. Immediate Family Definition**

f. "Immediate Family" means the husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law.

**Lisa Summers: written** - I agree with deletion of "second cousin" that was included in previous draft. There should be a consistent definition of "Immediate Family" in all laws & policies.

*Response*

This is the definition of "immediate family" that we have been using in all laws other than those related to the Oneida Judiciary.

**Comment 6. Including Date of Birth to the Application Form**

- 4-2. Application forms must contain:
- a. questions designed to obtain the applicant's

**Lisa Summers: written** - Date of Birth should also be added. Some boards, committees, and commissions, such as ONCOA, have an age requirement that needs to be verified. In addition, if an applicant provides the incorrect enrollment number, the date of birth may be utilized to verify enrollment with the Enrollment Department.

*Response*

There are no legal or legislative bars to including this recommendation and no reason it could not be included.

**Comment 7. Application Form Address Requirements**

- 4-2. Application forms must contain:
- b. questions designed to obtain the applicant's
    2. address;

**Lisa Summers: written** - "mailing address" and "physical or street address" should also be included. Applicants may provide a physical or street address at which they do not receive mail. In addition, some boards, committees, and commissions, such as the Trust/Enrollment Committee, have a residency requirement that needs to be verified.

*Response*

There are no legal or legislative bars to including this recommendation and no reason it could not



be included.

#### **Comment 8. Election Board Verification of Candidates**

4-4. The Election Board shall verify all Applications for elected positions in accordance with the Oneida Election Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all Applications for appointed positions **as needed or as required by the Entity's by-laws** to ensure the eligibility and qualification requirements are met.

**Lisa Summers:** *written* - This same statement should be included for the Election Board as well, to ensure they are working from the by-laws and from no other source of information, such as the website, which may have errors.

#### *Response*

I agree that the same reference to “as needed or as require by the Entity’s by-laws” should be included in the first sentence regarding the Election Board’s verification of candidates. I recommend revising this Article to read:

4-4. The Election Board shall verify all Applications for elected positions in accordance with the Oneida Election Law to ensure the eligibility and qualification requirements are met **as identified in the Entity’s by-laws**. The Secretary shall verify all Applications for appointed positions **as needed or as required by the Entity’s by-laws** to ensure the eligibility and qualification requirements **are met as identified in the Entity’s by-laws**.

#### **Comment 9. Election Board’s Responsibility after Completion of the Application Deadline**

4-5. **At the completion of the posted deadline for filing Applications**, the Election Board shall provide notice to all persons who have filed an Application for an elected position and the Secretary shall provide notice to all persons who have filed an Application for an appointed position.

**Lisa Summers:** *written* - Does this include the extra five (5) days for postmarked applications referenced in section 4-3.? I think this needs to clear.

#### *Response*

Yes the intent is for this to include the extra five (5) days for postmarked applications reference in section 4-3, but I agree that it is not clear. I recommend revising the sentence as follows:

4-5. **After five (5) business days have passed since the posted deadlines** ~~At the completion of the posted deadline~~ for filing Applications, the Election Board shall provide notice to all persons who have filed an Application for an elected position and the Secretary shall provide notice to all persons who have filed an Application for an appointed position.

### **Comment 10. Tax Form Notice for Applicants**

4-5(a)(5) "... You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

**Lisa Summers:** *written* - The tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence "You will receive the applicable IRS tax form..."

#### *Response*

I agree; "an IRS Form 1099" should be replaced with "the applicable tax forms."

### **Comments 11 and 12. Insufficient Applicants for Appointed Positions**

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the Chairperson shall elect to either:

- a. Allow late Applications to be included within the applicant pool, or
- b. Repost the Vacancy for an additional time period. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

**Comment 11: Lisa Summers:** *written* - Because this is discretionary, I believe it should be the entire Business Committee's responsibility to make the decision. There is no point in requiring the Secretary to enforce a deadline if that enforcement can be undone; this discretion could cause unnecessary conflict. The other option to address my concern would be to disallow late applications.

Lastly, at this point, how is the Chair in possession of the applications in order to make this determination? There is no indication the Chair's office is notified of insufficient applicants. Another option would be for the Secretary, who is in possession of the applications in the previous section to place this on the next Business Committee meeting for consideration to allow late applications or repost.

**Comment 12: Lisa Summers:** *written* - If the Chair elects to repost the vacancy, how will this reposting occur? Will the request go to the Business Committee for acceptance? How will the reposting happen? I don't believe it is clear.

#### *Response*

I would recommend revising this article to allow the Secretary to automatically repost in the event there are insufficient applicants with notice to the Oneida Business Committee. This way any late applicants could reapply in the second posting while maintaining the integrity of the application deadlines. I recommend it to read:

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions in accordance with Article 4-3, the Secretary shall repost the Vacancy for an additional timeframe equal to the initial posting and shall provide notice of the reposting to the



Oneida Business Committee at the first available Oneida Business Committee meeting following the initial deadline for accepting Applications. ~~the Chairperson shall elect to either:~~

~~a. Allow late Applications to be included within the applicant pool, or~~

~~b. Repost the Vacancy for an additional time period.~~ In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

### **Comment 13. Automatic Reposting for a Clerical Error**

5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as practicable after noticing such error. Under these limited circumstances, the Secretary does not require permission from the Oneida Business Committee to repost notice of the Vacancy. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

**Lisa Summers: written** - A requirement that notice be provided to the Business Committee no later than the next meeting should be included.

#### *Response*

If the LOC agrees with this comment, I would recommend revising as follows:

...Under these limited circumstances, the Secretary does not require permission from the Oneida Business Committee to repost notice of the Vacancy, provided that the Secretary shall provide notice of the reposting to the Oneida Business Committee at the first available Oneida Business Committee meeting following notice of the error requiring the reposting. ...

### **Comment 14. Appointment in General**

**Lisa Summers: written** - I believe appoints should be made at the by end of the first quarter of each BC term. All appointed terms would be every 3 years and truly serve at that BC's discretion. If this were approved, the other comments made may not apply. I can provide a transition plan for this to become effective with the next BC.

#### *Response*

This is a policy determination for the LOC. There are no legislative or legal bars to implementing the Secretary's recommendation.

### **Comment 15. Interim Appointments**

6-1. All appointments must be made by the Oneida Business Committee at regular or special Oneida Business Committee meetings, provided that, no applicant may be appointed who fails to meet the requirements set out in the Entity's by-laws.

**Lisa Summers: written** - Do interim appointments need to meet all of the requirements as well? This question has come up in the past.

*Response*

Do interim appointments not apply? So long as interim appointments are applicants, interim appointments would be required to meet the requirements set out in the Entity's by-laws because it states, "no applicant may be appointed who fails to meet the requirements set out in the Entity's by-laws."

**Comment 16. Membership Determined by Entity Identification as Appointed or Elected in By-Laws**

6-1(a) Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

**Lisa Summers:** *written* - I understand the intent of this section, but it may need to be moved to a different section of Policy and not under "Appointed Entities".

*Response*

If the LOC agrees that this provision is awkwardly placed, I would recommend moving it to Article 5-1 and removing it from 6-1(a) and 7-1(a).

**Comment 17. Providing Applicants for Appointment to the Chairperson**

6-2(a) Within five (5) business days after the application deadline and notice has been provided pursuant to Article 4-5, the Secretary shall deliver to the Chairperson all eligible Applications, as verified by the Secretary, along with a summary of qualifications to hold office.

**Lisa Summers:** *written* - I don't think this timeline fits section 4-3. which allows applications that are postmarked by the deadline, and received within five (5) business days to be considered. Time is needed for the Secretary to verify eligibility in accordance with section 4.4.

*Response*

I believe my recommended revisions to Article 4-5 in comment 9 address the Secretary's concern, unless she does not believe five (5) business days after providing notice under Article 4-5 is adequate time. If that is the case, I would recommend seeking the Secretary's input as to what timeframe would be more appropriate.

**Comment 18. Chairperson's Timeframe for Selecting an Appointee**

6-2(b) When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. Within a reasonable time, the Chairperson shall either:

**Lisa Summers:** *written* - Due to the inclusion of a designee in the definition of Chairperson, I suggest adding a timeframe e.g. "within 30 days" or something to that effect.



*Response*

This is a policy consideration for the LOC. The Secretary's suggestion has no legislative or legal impact.

**Comment 19. Ability of the Chairperson to Request Reposting of a Vacancy**

6-2.b. When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. Within a reasonable time, the Chairperson shall either:

1. choose an applicant(s) for appointment, or
2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified applicant pool.

**Lisa Summers:** *written* - As with 4-6.b., if the Chair elects to repost the vacancy, how will this posting occur? Does the request go to the Business Committee for acceptance?

*Response*

If the LOC accepts my recommendation made in response to Comments 11 and 12, the reposting would be done automatically by the Secretary in the event that there were ineligible, unqualified or under qualified applicant pools. The Chairperson should not even receive applicants that applied and were either ineligible for unqualified. Accordingly, if that recommendation is accepted, I would recommend revising this Article to read:

6-2.b. When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. ~~Within a reasonable time,~~  
~~The Chairperson shall either:~~

- ~~1. choose~~select an applicant(s) for appointment, ~~or~~
- ~~2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified applicant pool~~ within a reasonable time from receiving the eligible and qualified applicants from the Secretary.

**Comments 20, 21 and 22. Article Ordering**

6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest upon taking the oath. The Secretary shall notify the chosen persons when they should appear for taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary.
  1. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:
 

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people

with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the (Entity name), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.
- e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

6-4. The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include the following:

“The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.”

**Comment 21: Lisa Summers: written** - This section should be moved between 6-2. and 6-4. Include requirement to notify the chosen persons when they should appear for taking the oath.

**Comment 20: Lisa Summers: written** - Delete this line, if comment #21 regarding the reordering of sections 6-3. and 6-4. is accepted.

**Comment 22: Lisa Summers: written** - As with section 4-5.a.5., the tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence “You will receive the applicable IRS tax form...”

#### *Response*

I agree with the Secretary and recommend revising Articles 6-3 and 6-4 to read:

6-3. The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must notify the appointee when they are required to appear for taking the oath and must include the following:

“The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive ~~an IRS Form 1099~~ the applicable tax form which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.”



6-4. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest upon taking the oath. ...~~The Secretary shall notify the chosen persons when they should appear for taking the oath.~~

### **Comment 23. Termination of Appointed v. Removal of Elected**

6-5.a. An Appointed Entity may bring a request for termination of a Member to the Oneida Business Committee by asserting that there is cause for termination based on one (1) or more of the following:

1. Failure to meet and maintain the requisite qualifications as identified in the Entity's bylaws.
2. Breach of confidentiality.
3. Accumulation of three (3) or more unexcused absences from required meetings or other Entity responsibilities in the Member's term, where an absence is unexcused if the appointed Member fails to provide twenty-four (24) hours of notice of an anticipated absence.
4. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.
5. Any other cause for termination established in the Entity's by-laws.
6. Violations of Tribal law.
7. Conducting him or herself in a manner that is detrimental to the Entity's reputation or that inhibits the Entity's ability to fulfill its responsibilities.

**Matt Denny:** For Boards, Committees and Commissions role in terminating appointed positions, my question would be, for the elected positions, specifically the Gaming Commission, we just had an incident that happened with an elected official, and here you allow something for the appointed position to be terminated, can the elected positions be terminated as well?

**Brandon Stevens:** I think so, yea, where we're going in the direction is having the misconduct kind of written out to say that these are some of the things that are not discretionary. So let's say you become ineligible based on the requirements of having the position, those are easier to say there is no discretion involved and that can follow a process. So, yea, that's the direction we are going in.

**Matt Denny:** I'm just saying this says just for appointed, does it also include the elected? I am looking at line 40 on page 2. Is this going to cover elected officials then?

**Krystal John:** Elected officials are subject to the Removal Law.

**Matt Denny:** So this doesn't cover elected officials then?

**Krystal John:** It covers elected officials.

**Brandon Stevens:** But the removal, you are talking more so the removal part of that. Let's say elected official...

**Matt Denny:** You're allowing an appointed person to be terminated from a Board, Committee or Commission...

**Krystal John:** I'm sorry, I am nervous I am not picking up his comments for transcription, if you want to sit here please.

**Matt Denny:** On page 2 there, of what I just read, on line number 40, it talks about an appointed entity seeking termination, but the Gaming Commission is not an appointed entity, it is an elected entity, does something in this document cover that elected official ... from not being eligible...

**Krystal John:** Being removed?

**Matt Denny:** No, not necessarily removed. Here you are talking about if you fail to meet and retain the requisite qualifications per the entity's bylaws, that has to deal with an appointed entity, but I am asking does this also cover, the appointed or the elected entities?

**Brandon Stevens:** So it would not, so you're asking, or your suggestion is that there should be a provision that that would allow the termination or removal of an elected official based on the requirements not being adhered to at any given time in their their or their election or...

**Matt Denny:** Yea I think it should be considered anyway, I don't know the elected law by heart or anything.

**Brandon Stevens:** Okay.

**Matt Denny:** When an elected official becomes ineligible, and the Gaming Commission has specific eligibility requirements, there is nothing, besides the Removal Law, that addressed what can happen.

**Brandon Stevens:** Yea.

**Matt Denny:** But in this document you have it for the appointed positions and I just want to know, can it be in there for an elected position, maybe make it specific to the Gaming Commission only, not to put the BC in the same position, because we are kind of similar. But, I would like to see something to cover the Gaming Commission I guess is what I'm saying.

**Brandon Stevens:** Okay, yes, we will take that as a comment and we will look to see how we can process that because I understand.

**Matt Denny:** Yea because it just says appointed here, and I don't want it to be just, because it doesn't fall underneath us, I want something for us.

**Brandon Stevens:** Yea, it's the same thing with the Business Committee, so if we have to be required to live within the boundaries or Outagamie or Brown County. So say if I move to Florida, what happens if I say, "No, I'm not going to resign"?

**Matt Denny:** And that's the only question I had was that.

**Brandon Stevens:** Okay.

**Matt Denny:** It's for appointment and nothing and for elected, I know there is a difference, but I just wanted to see if that could be covered.

**Brandon Stevens:** Okay, alright, thank you. So if there is no other comments on that, we will move to the Administrative Rulemaking.

### *Response*

The Comprehensive Policy Governing Boards, Committees and Commissions defers to the Removal Law in regards to removing an elected member and does not contain a similar provision to that cited by the commenter which allows for termination of an appointment if a member no longer meets the requirements to serve the entity. However, the Comprehensive Policy does allow entities to include additional grounds for removal to those contained in the Removal Law within the entity's by-laws. Please see Article 8-4.a.4.E. While the concern is valid, it must be addressed in the Removal Law and/or the entity's SOPs, which could offer a member that has become ineligible to provide a resignation prior to the entity's initiation of the removal process. There are no recommended changes based on this comment.

### **Comment 24. Membership Determined by Entity Identification as Appointed or Elected in By-Laws**

7-1(a) Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

**Lisa Summers:** *written* - I understand this is the same as section 6-1.a., but it doesn't seem to fit here either.

### *Response*

If the LOC agrees that this provision is awkwardly placed, I would recommend moving it to Article 5-1 and removing it from 6-1(a) and 7-1(a).



## Comments 25, 26 and 27. Notice to Elected Candidates

7-2. All other processes must be as directed in the Oneida Election Law. In addition to these processes, all applicants must be notified of the final results of the election. Notices to those elected must include the following: ...

**Comment 25: Lisa Summers: *written*** - This section appears to state the Secretary will notify all candidates of the official election results? If so, there needs to be consideration for the Secretary to maintain the applicant record or application for elected positions as currently in most situations this does not occur.

**Comment 26: Lisa Summers: *written*** - Include requirement to notify those elected when they should appear for taking the oath.

**Comment 27: Lisa Summers: *written*** - This section should match sections 4-5.a.5 and 6-4.

### *Response*

In response to Comment 25, the responsible party for providing notice to elected candidate is the Election Board. I agree with the Secretary's recommendations provided in Comments 26 and 27. I recommend revising this Article to read:

7-2. All other processes must be as directed in the Oneida Election Law. In addition to these processes, the Oneida Election Board shall notify all applicants ~~must be notified~~ of the final results of the election. Notices to those elected must notify the elected person when they are required to appear for taking the oath and must include the following:

"The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive ~~an income report~~ the applicable tax form which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

### **Comment 28. Typo in Article 7-3.e.**

e. All oaths must be sufficient to make the **appointee** aware of his or her duty to the Tribe as a Member of the Entity.

**Lisa Summers: *written*** - They are not appointees, they are elected Members.

### *Response*

Noted. "Appointed" should be replaced with "elected Member."

### **Comment 29. Timeframe for Revising By-laws to Comply with these Amendments**

8-1. ... All existing Entities shall comply with this format and present by-laws for adoption within a reasonable time after creation of the Entity. ...

**Lisa Summers:** *written* - A six (6) month timeframe should be included in the adoption resolution as well.

*Response*

If the LOC would like, I could certainly place a requirement in the adopting resolution that all Entities must submit a draft of their by-laws to the LOC to be updated in order to comply with these amendments within six months of the effective date of the amendments.

**Comment 30. Requiring a Compensation Section in Entities' By-Laws**

8-3. All by-laws must contain the following Articles:

- a. Article I. Authority.
- b. Article II. Officers
- c. Article III. Meetings
- d. Article IV. Reporting
- e. Article V. Amendments

**Lisa Summers:** *written* - Insert "Article V. Compensation" to differentiate full-time/part-time salaried, elected v. stipended. Article V. Amendments becomes Article VI. Amendments.

*Response*

This is a policy consideration for the LOC. The Secretary's suggestion has no legislative or legal impact.

**Comment 31. Official E-mail Address of Entity Members**

8-4.a.4. Membership. Provide the following information:

- A. Number of Members;
- B. Whether the Entity is an elected or appointed body and how Members are elected or appointed;
- C. How Vacancies are filled
- D. The requisite qualifications for Membership.
- E. Causes for termination or removal, if any, in addition to those contained under Article 6-5.a. hereof and the Removal Law.

**Lisa Summers:** *written* - Insert sub-section for "E-mail address", noting it must be an authorized email and it is the official email of the Entity.

*Response*

I agree that it is important to incorporate the requirement for an official email address for Entity Members, but I don't think the by-laws is the appropriate place. I think it should be placed in a separate Article IX (inserted before the current Article IX. Minutes). I recommend it read as follows and including a statement in the adopting resolution requiring the Secretary to provide all

current Entity members with official Tribal e-mail addresses within 6 months of the effective date of the amendments with the same acknowledgment forms required in 9-1.:

**Article IX. Official Tribal E-mail Address for all Entity Members**

9-1. Upon election or appointment to an Entity, the Secretary shall work with the Management Information Systems to provide each Entity Member with an official Tribal e-mail address. Entity Members shall sign the acknowledgment form provided by the Secretary indicating notice of applicable computer and media related Tribal laws, policies and rules. The Secretary shall maintain a record of all such acknowledgment forms.

9-2. Entity Members shall use the official Tribal e-mail address for conducting all electronic business of the Entity. Entity Members may not use any personal e-mail address to conduct any business of the Entity.

9-3. Immediately upon receipt of notice of an Entity Vacancy, the Secretary shall instruct the Management Information Systems to disable the e-mail address for the said Member.

**Comment 32. Limiting the Entity Membership to Five (5) Members per Board, Committee or Commission**

8-4.a.4. Membership. Provide the following information:

A. Number of Members;

**Lisa Summers:** *written* - I believe we need to limit all membership, except where provided by law, to five (5) Members. I can provide a transition plan to achieve through attrition.

*Response*

This is a policy consideration for the LOC. The Secretary's suggestion has no legislative or legal impact aside from the Entity's by-laws which need to be updated to comply with these amendments regardless of whether this revision is included.

**Comment 33. How Vacancies Are Filled**

8-4.a.4. Membership. Provide the following information:

C. How Vacancies are filled

**Lisa Summers:** *written* - We currently have many different versions of this section. Some elected Entities make their own appointment to fill a vacancy and it is simply accepted by the Business Committee, some are required to provide a recommendation to the Chairperson. This Policy provides the uniform process for appointed Entities. This Policy and the Election Law provide the uniform process for elected Entities. The process should be the same for all Entities. I believe this line should be deleted.

*Response*

This Policy is a policy consideration for the LOC. The Secretary's recommendation does not conflict with any proposed legislation or effective laws or policies.



**Comment 34. The Requisite Qualifications for Membership**

8-4.a.4. Membership. Provide the following information:

D. The requisite qualifications for Membership.

**Lisa Summers:** *written* - There should be minimum qualifications included here. For any Entity, a Member must meet some standard set by this Policy. The By-laws may exceed these minimum qualifications, but not fall lower the minimum set by the Policy.

*Response*

The LOC certainly could include minimum qualifications as the Secretary suggests. The Secretary has not provided any minimum qualifications for the LOC to consider, so if it choses to institute minimum qualifications it must determine what those should be. There are no legislative or legal restrictions prohibiting including minimum qualifications for entity membership.

**Comment 35. Entities' Trainings**

8-4.a.6. Trainings. Provide a comprehensive list of all trainings that the Entity deems necessary for Members to responsibly serve the Entity.

**Lisa Summers:** *written* - Training plans should be approve by the GTC for elected Entities or the BC for appointed Entities.

*Response*

This Policy certainly could require the approvals that the Secretary suggests, but there is not current Tribal law or policy that requires the approvals suggested by the Secretary.

**Comments 36 and 37. Word Choice – “Office” to “Officer”**

8-4.b.4. Additional **Offices** and Duties. Include additional sub-articles to specifically list duties and limitations for every **office** created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.

**Comment 36: Lisa Summers:** *written* - Change to “Officers”. “Offices” connotes a department or staff and is unclear.

**Comment 37: Lisa Summers:** *written* - Change to “officer”. Same as comment #36

*Response*

If the LOC agrees with the Secretary that this word choice is confusing, it could certainly be revised as she suggests without a legislative impact.

**Comment 38. Requiring a Sub-Article for Sign Off Authority**

8-4.b. "Article II. Officers" is to consist of the following information:

1. Chair and Vice-Chair. This section creates the positions of the Entity. Other positions may also be created here.

2. Chair duties. Because of the importance of this position, specifically list the chairperson's duties and limitations.
3. Vice-Chair duties. Because of the importance of this position, specifically list the vice-chairperson's duties and limitations.
4. Additional Offices and Duties. Include additional sub-articles to specifically list duties and limitations for every office created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.
5. How chosen. Specifically state how a Member of the Entity will be chosen to occupy an officer's position.
6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.

**Lisa Summers:** *written* - Add sub-section regarding "Sign Off Authority" and its limitation. Statement in sub-section 4. Relates to travel only, the Sign-Off needs to be designated and limited for other budget items as well, such as supplies, meeting materials, stipends, etc.

*Response*

This is a policy consideration for the LOC. The Secretary's suggestion has no legislative or legal impact.

**Comment 39. Entity Personnel**

8-4.b. "Article II. Officers" is to consist of the following information:

6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.

**Lisa Summers:** *written* - If an Entity has full Officers, e.g. the Entity has a Secretary, there is no need for personnel. There should be limitations and/or parameters for personnel included in the Policy.

*Response*

This is a policy consideration for the LOC. The Secretary's suggestion has no legislative or legal impact.

**Comment 40. Regular Meeting Notice Requirements**

8-4.c.1. Regular meetings. State when and where regular meetings are to be held, and, explain how notice of the meeting, agenda, documents, and minutes will be provided. ...

**Lisa Summers:** *written* - Notice of all meetings should be in compliance with the Open Records and Open Meetings Law. If this comment is not accepted, please consider comments #41 and #42.



*Response*

The requirements of this sub-article do satisfy the current requirements of the Open Records and Open Meetings Law. The Open Records and Open Meetings Law requires the following of Boards, Committees and Commissions:

**7.15. Public Notice Other Governmental Bodies**

7.15-1. All meetings of governmental bodies other than the Business Committee, shall be preceded by public notice and, except where otherwise provided by any other laws or bylaws, shall be held in open session.

7.15-2 Public notice of all meetings of a governmental body shall set forth the time, date and place of the meeting and shall be given in the following manner:

- (a) As required by any other laws or bylaws;
- (b) By communication from the presiding officer to the editor of the Kalihwisaks when the submission deadline precedes a meeting date; and
- (c) At least twenty-four (24) hours prior to the commencement of such a meeting unless, for good cause, such notice is impossible or impractical, in which case shorter notice may be given.

If the requirements of the Open Records and Open Meetings Law would change and this notice no longer satisfied that Law's requirements, this Policy would need to be updated, so I do recommend a reference to the Open Records and Open Meetings Law as follows:

8-4.c.1. Regular meetings. In accordance with the Open Records and Open Meetings Law, State state when and where regular meetings are to be held, and, explain how notice of the meeting, agenda, documents, and minutes will be provided. ...

**Comments 41 & 42. Required Notice of Regular Meetings in the Tribal Newspaper and on the Tribe's Community Calendar**

8-4.c.1. Regular meetings. ... At a minimum, the Entity 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.

**Comment 41: Lisa Summers: written** - "requesting the posting of" The Entity cannot "make" the Tribe's newspaper publish their information. Additionally, most Entities will not have access to the community calendar, there for they should "request the posting of" in this case as well.

**Comment 42: Lisa Summers: written** - "on"

*Response*

In regards to the comment regarding the community calendar and the word change from "in" to "on", the draft that the Secretary reviewed (draft 5) has since been updated to address the concern as represented in 8-4.c.1. provided above from the Public Meeting Draft, Draft 6. The Secretary's concern related to the posting in the newspaper has not been addressed. I recommend revising 8-4.c.1. to read:



Regular meetings. ... At a minimum, the Entity shall provide public notice of regular meetings by submitting ~~posting~~ the dates, time and location for all regular meetings to the Tribe's newspaper to be published 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.

#### **Comment 43. Notice Required for Emergency Meetings**

8-4.c.2. Emergency meetings. State how emergency meetings may be called and must be noticed, provided that, at a minimum, the Entity 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. ...

**Lisa Summers:** *written* - Again, notice should be in compliance with the Open Records and Open Meetings law.

#### *Response*

The requirements of this sub-article do satisfy the current requirements of the Open Records and Open Meetings Law, provided that the nature of an Emergency Meeting implies that satisfaction of 7.15-2(b) below would not be feasible. The Open Records and Open Meetings Law requires the following of Boards, Committees and Commissions:

#### **7.15. Public Notice Other Governmental Bodies**

7.15-1. All meetings of governmental bodies other than the Business Committee, shall be preceded by public notice and, except where otherwise provided by any other laws or bylaws, shall be held in open session.

7.15-2 Public notice of all meetings of a governmental body shall set forth the time, date and place of the meeting and shall be given in the following manner:

- (a) As required by any other laws or bylaws;
- (b) By communication from the presiding officer to the editor of the Kalihwisaks when the submission deadline precedes a meeting date; and
- (c) At least twenty-four (24) hours prior to the commencement of such a meeting unless, for good cause, such notice is impossible or impractical, in which case shorter notice may be given.

If the requirements of the Open Records and Open Meetings Law would change and this notice no longer satisfied that Law's requirements, this Policy would need to be updated, so I do recommend a reference to the Open Records and Open Meetings Law as follows:

8-4.c.2. Emergency meetings. In accordance with the Open Records and Open Meetings Law, State-state how emergency meetings may be called and must be noticed, provided that, at a minimum, the Entity 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. ...

#### **Comment 44. Notice Required for Special Meetings**

8-4.c.3. Special meetings. State how special meetings may be called and must be noticed, provided that, at a minimum, the Entity 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.

**Lisa Summers:** *written* - Again, notice should be in compliance with the Open Records and Open Meetings law.

#### *Response*

The requirements of this sub-article satisfy the current requirements of the Open Records and Open Meetings Law with the exception of 7.15-2(b) below. The Open Records and Open Meetings Law requires the following of Boards, Committees and Commissions:

#### **7.15. Public Notice Other Governmental Bodies**

7.15-1. All meetings of governmental bodies other than the Business Committee, shall be preceded by public notice and, except where otherwise provided by any other laws or bylaws, shall be held in open session.

7.15-2 Public notice of all meetings of a governmental body shall set forth the time, date and place of the meeting and shall be given in the following manner:

- (a) As required by any other laws or bylaws;
- (b) By communication from the presiding officer to the editor of the Kalihwisaks when the submission deadline precedes a meeting date; and
- (c) At least twenty-four (24) hours prior to the commencement of such a meeting unless, for good cause, such notice is impossible or impractical, in which case shorter notice may be given.

Minimally, this sub-Article needs to include a reference to the Open Records and Open Meetings Law and/or include the requirement contained in 7.15-2(b) of the Open Records and Open Meetings Law. I recommend including a reference to the Open Records and Open Meetings Law as was recommended for the provision regarding regular meetings and emergency meetings. In addition, I recommend including a definition of "special meeting." Based on these recommendations, I would revise this sub-article to read:

8-4.c.3. Special meetings. Special meetings are meetings that are not scheduled regular meetings but also do not rise to the level of emergency justification required in sub-Article 8-4.c.2. Entities shall ~~State-state~~ how special meetings may be called and must be noticed in accordance with the Open Records and Open Meetings Law, provided that, at a minimum, the Entity 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.



#### **Comment 45. How a Quorum is Determined**

8-4.c.4. Quorum. State how many Members create a quorum.

**Lisa Summers:** *written* - “State how a quorum is determined.” Entities have had issues with getting a quorum when a specific number is identified in this section. Those Entities may want to consider another deamination of a quorum, such as “a majority of current Members”.

#### *Response*

In order to accommodate the Secretary’s recommendation, the LOC could include the recommendation as a minimum requirement of a quorum. If the LOC choses to do so, I would recommend revising this sub-article as follows:

8-4.c.4. Quorum. State how many Members create a quorum, provided that, at a minimum, Entities shall require a majority of the Entity’s current Members to create a quorum.

#### **Comment 46. Entity Document Management**

- 8-4.d. 1. Agenda items. Agenda items must be in an identified and consistent format.
2. Minutes. Minutes must be typed and in a consistent format designed to generate the most informative record of the meetings of the Entity.
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 based on the meeting in which they were presented.

**Lisa Summers:** *written* - Although Article IX. provides direction on what Entities do with their minutes, additional direction may needed for any other records, such as agendas and handouts. Another option is to include a reference to the Open Records and Open Meeting law.

#### *Response*

Based on the Secretary’s recommendation, I suggest combining and revising sub-article 2 and 3 as follows:

2. Minutes and Attachments. Minutes must be typed and in a consistent format designed to generate the most informative record of the meetings of the Entity.
- ~~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 based on the meeting in which they were presented. The Entity shall maintain its meeting materials and records in accordance with the Open Records and Open Meetings Law.

#### **Comment 47. Quarterly Reporting an Entity’s Minutes**

8-4.d.4.A.ii. 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.

**Lisa Summers:** *written* - Section needs to be reworded as it appears to contradict section 9-3. Perhaps the same section needs to be included here as well.

*Response*

The Secretary's concern is valid. I suggest revising to read:

8-4.d.4.A.ii. 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; provided that, no action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an Entity unless specifically required by the by-laws of that Entity.

**Comment 48. Reporting Special Events and Travel During the Reporting Period**

8-4.d.4.A.iv. Special Events and Travel During the Reporting Period: Report any special events held during the reporting period and any travel by the Members and/or staff. Travel reports must include the following:

- a. Which Member(s) and/or staff traveled;
- b. Where the Member(s) and/or staff traveled to and the travel dates;
- c. The purpose for the travel and a brief explanation of how the travel benefited the Tribe;
- d. The cost of the travel and how the cost of the travel was covered by the Entity; and
- e. Whether the cost of travel was within their budget and, if not, an explanation as to why travel costs were incurred that exceeded the Entity's budget.

**Lisa Summers:** *written* - Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel for appointed entities could be approved by the Business Committee. An alternate comment is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

*Response*

The LOC discussed the reporting of Entity's travel at length prior sending this draft to public meeting. The Secretary's suggestions represent a change from the LOC's previous policy decision regarding the required level of travel reporting/approval, provided that such a policy revision could be made without conflicting with other existing Tribal laws and/or policies.

#### **Comment 49. Reporting Anticipated Travel for the Upcoming Reporting Period**

8-4.d.4.A.v. Anticipated Travel for the Upcoming Reporting Period: Report any travel Members and/or staff are anticipating in the upcoming reporting period. Future travel reports must include the following:

- a. Which Member(s) and/or staff will to travel;
- b. Where the Member(s) and/or staff will to travel to and the anticipated travel dates;
- c. The purpose for the travel and a brief explanation of how the travel will benefit the Tribe;
- d. The cost of the travel and how the cost of the travel will be covered by the Entity; and
- e. Whether the cost of travel is within their budget and, if not, an explanation as to why the Entity anticipates incurring travel costs that exceeds its budget.

**Lisa Summers:** *written* - Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel should be approved by the Business Committee. Another suggestion is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

#### *Response*

The LOC discussed the reporting of Entity's travel at length prior sending this draft to public meeting. The Secretary's suggestions represent a change from the LOC's previous policy decision regarding the required level of travel reporting/approval, provided that such a policy revision could be made without conflicting with other existing Tribal laws and/or policies.

#### **Comment 50. Section Reference Missing**

8-4.d.4.A.vi. Goals and Accomplishments: Provide the Entity's annual goals established in its annual report pursuant to **section** and how the Entity has worked towards achieving such goals during the reporting period.

**Lisa Summers:** *written* - Section reference needs to be added.

#### *Response*

The Secretary is correct; it should reference Article 8-4.d.4.B.v.

#### **Comment 51. Storage and Disposal of Entity Records upon Dissolution**

9-4. In the event of dissolution of an Entity, all files and documents are required to be forwarded to the Secretary for proper storage and disposal.

**Lisa Summers:** *written* - This disposal should reference and be in accordance with the Open Records and Open Meetings law.



*Response*

The current wording of this sub-article does not conflict with the Open Records and Open Meetings Law or imply that the requirements of that law are not required, however, in order to be explicitly clear the LOC could revise as suggested by the Secretary to read as follows:

9-4. In the event of dissolution of an Entity, all files and documents are required to be forwarded to the Secretary for proper storage and disposal in accordance with the Open Records and Open Meetings Law.

**Comment 52. Storage and Disposal of Task Force or Ad Hoc Committee Records upon Dissolution**

10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

**Lisa Summers:** *written* - In accordance with the Open Records and Open Meetings law.

*Response*

The current wording of this sub-article does not conflict with the Open Records and Open Meetings Law or imply that the requirements of that law are not required, however, in order to be explicitly clear the LOC could revise as suggested by the Secretary to read as follows:

10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution in accordance with the Open Records and Open Meetings Law.

**Comment 53. Storage and Disposal of other Entities' Records upon Dissolution**

10-3. ... Unless otherwise indicated, the materials generated by these Entities must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

**Lisa Summers:** *written* - In accordance with the Open Records and Open Meetings law.

*Response*

The current wording of this sub-article does not conflict with the Open Records and Open Meetings Law or imply that the requirements of that law are not required, however, in order to be explicitly clear the LOC could revise as suggested by the Secretary to read as follows:

10-3. ... Unless otherwise indicated, the materials generated by these Entities must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution in accordance with the Open Records and Open Meetings Law.



#### **Comment 54. Compensation Definition**

11-1. Compensation and reimbursement for expenses must be as set out in this Article and according to procedures for payment as set out by the Tribe.

**Lisa Summers:** *written* - Add sub-section or define compensation so that compensation may be in the form of a cash equivalent.

#### *Response*

This is a policy consideration for the LOC. The Secretary's recommendation does not conflict with current proposed legislation or effective law or policy. If the LOC chooses to accept the Secretary's recommendation, I suggest revising as follows and would consider including the cash or cash equivalent reference in the definition of "Stipend" also:

11-1. Compensation and reimbursement for expenses must be as set out in this Article and according to procedures for payment as set out by the Tribe. For this purposes of this Article, compensation means payment to a Member in the form of cash or cash equivalent.

#### **Comment 55. Declining a Stipend for an Appointed Board, Committee or Commission**

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined by the Entity, or declined by a Member(s), appointed Members serving on appointed Entities are to be paid a Stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that Entity. ...

**Lisa Summers:** *written* - This implies the Entity (a majority vote?) can decline the stipend, but what occurs to a Member who doesn't agree with the decision of the Entity?

#### *Response*

The Secretary is correct that this Article allows an Entity as a whole to decline stipends. Such a decision would have to be made according to the Entity's required process for formal action, likely an approved motion at a meeting having quorum in accordance with the Entity's bylaws. A member that did not support the Entity's action to decline the stipend would not be eligible to collect a stipend. If the LOC does not agree with this policy, it could revise this article so that only individual members may decline stipends. If such a revision was directed, I would recommend revising the article as follows:

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined ~~by the Entity, or declined~~ by a Member(s), appointed Members serving on appointed Entities are to be paid a Stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that Entity. ...

### **Comment 56. Oneida Child Protective Board Stipends**

11-3.a. Members serving on the Oneida Child Protective Board are exempt from the \$50 Stipend per month limitation and are to receive a \$50 Stipend for each meeting held in accordance with 11-3.

**Lisa Summers:** *written* - There should be consideration for limiting this exception to 3 or 4 meetings a month. This language looks open-ended. Another option for consideration is to delete this exception.

#### *Response*

This is a policy consideration for the LOC. The Secretary's recommendation would require the Oneida Child Protective Board's bylaws to be updated, although they will need to be updated to incorporate these amendments regardless. The Child Protective Board's bylaws currently conflict with this Policy (both as effective and as amended) in that they authorize a stipend of \$75.00 for each meeting. They base such authority on BC Resolution 12-20-03-A, however the last effective date of this Policy is 9-22-10, so the current Policy should govern.

### **Comment 57. Declining a Stipend for an Elected Board, Committee or Commission**

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined by the Entity, or declined by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting.  
...

**Lisa Summers:** *written* - This implies the Entity (a majority vote?) can decline the stipend, but what occurs to a Member who doesn't agree with the decision of the Entity?

#### *Response*

The Secretary is correct that this Article allows an Entity as a whole to decline stipends. Such a decision would have to be made according to the Entity's required process for formal action, likely an approved motion at a meeting having quorum in accordance with the Entity's bylaws. A member that did not support the Entity's action to decline the stipend would not be eligible to collect a stipend. If the LOC does not agree with this policy, it could revise this article so that only individual members may decline stipends. If such a revision was directed, I would recommend revising the article as follows:

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined ~~by the Entity,~~  
~~or declined~~ by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting.  
...



### **Comment 58. Stipends for Attending Conferences**

11-7.a. A Member is eligible for a \$100 Stipend for each full day the Member is present at the Conference, when attendance at the Conference is required by law, by-law or resolution.

**Lisa Summers:** *written* - If an Member received a \$50 stipend, regardless of the length of the meeting, then this be the same. Or, I would prefer we pay them travel expenses only and no stipend.

#### *Response*

This is a policy consideration for the LOC. The Secretary's recommendation would not conflict with any proposed legislation or currently effective laws or policies.

### **Comment 59. Compensation for Attending Required Meetings on Behalf of a Board, Committee or Commission**

- 11-7. a. A Member is eligible for a \$100 Stipend for each full day the Member is present at the Conference, when attendance at the Conference is required by law, by-law or resolution.  
 b. A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.

**Election Board:** *written* – As currently written, the Comprehensive Policy does not allow for compensation to Board, Committee, and Commission members attending meetings on behalf of the Board (i.e. OBC meetings, budget meetings, judiciary hearings). This is something that should be approved and addressed in the Comprehensive Policy Governing Boards, Committees and Commissions and should follow the same stipulations as meeting requirements, i.e., must be in attendance for at least one hour (11.3). It is suggested that the Board, Committee, or Commission member must have documentation/proof of attendance i.e., sign-in sheet, agenda, etc. to process stipend upon formal approval of payment from the Board, Committee and Commission.

#### *Response*

The meetings that the Election Board references which Members are required to attend as representatives of a Board, Committee or Commission would not likely be compensable as a "Conference" stipend because such attendance, although critical, is generally not required by law, by-law or resolution. Further, such meetings are often not full day meetings. This is a policy decision for the LOC. The Election Board's recommendation would not conflict with any proposed legislation or effective laws and policies.

If the LOC decides to accept the Election Board's recommendation, I would recommend revising this section as provided below (which includes the recommendations in Comment 5 regarding the definition of Conference). You will notice that I did not include the Election Board's requirement that the meeting last one (1) hour because most Oneida Business Committee meetings would not require such representation for an entire hour and the Judiciary does not record how long items are before them, so this would not be an unenforceable provision. I also did not include the recommendation to require proof of attendance by means of a sign in sheet because, again, the judiciary does not have sign-in sheets. Rather, I required formal action of the



Entity naming the representative. This of course, is subject to the LOC's discussion and approval.

11-7. *Conferences, Trainings and Non-Entity Meetings*. A Member of any Entity must be reimbursed in accordance with the Oneida Travel and Expense Policy for travel and per diem to offset the Member's costs for attending a Conference, training or non-Entity meeting, provided that:

a. A Member is eligible for a \$100 Stipend for each full day the Member is present at the Conference or training, when attendance at the Conference or training is required by law, by-law or resolution:-

~~b. A~~ A Member is not eligible for a Conference or training Stipend if ~~that~~ Conference attendance is not required by law, by-law or resolution.

c. No Stipend payments may be made for those days spent traveling to and from the Conference.

d. A Member is eligible for a \$XX Stipend for attendance at a non-Entity Tribal government meeting or Oneida Judiciary hearing where Entity representation is deemed critical by the Entity. Only one (1) Entity Member may receive a stipend per non-Entity Tribal government meeting or Oneida Judiciary hearing. In order to receive said Stipend, the Entity must take formal action at a meeting having quorum selecting the Member to represent the Entity at the non-Entity Tribal government meeting or Oneida Judiciary hearing where Entity representation is deemed critical by the Entity.

#### **Comment 60. Questioned Reference**

13-6. No Member may hold office in an Entity which has authority over the area in which the Member is employed by the Tribe or elsewhere.

**Lisa Summers:** *written* - What does "or elsewhere" mean, any department?

#### *Response*

I cannot think of any need to retain the "or elsewhere" reference; I recommend deleting it.

#### *Conclusion*

There are a number of revisions suggested to the draft amendments to the Comprehensive Policy Governing Board, Committees and Commission presented for public meeting. Based on the LOC decisions regarding the suggestions received through these comments, it must determine whether an additional public meeting is necessary or if the amendments may be incorporated and presented for adoption without an additional public comment period.

Draft 06 – Public Meeting  
2015 12 03

## Comprehensive Policy Governing Boards, Committees and Commissions

Yolihwakwe·kú Kayanl̥hsla? yethiya?tanú·nha tsi? ka·yá lonatlihu·tú·

all of the matters – laws and policies – they're watching over them – the ones that have been appointed

Article I. Purpose and Policy

Article II. Adoption, Amendment, Repeal

Article III. Definitions

Article IV. Applications

Article V. Vacancies

Article VI. Appointed Entities

Article VII. Elected Entities

Article VIII. By-laws of Boards, Committees and Commissions

Article IX. Minutes

Article X. Dissolution of Entities

Article XI. Stipends, Reimbursement and Compensation for Service

Article XII. Confidential Information

Article XIII. Conflicts of Interest

1

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Comprehensive Policy Governing Boards, Committees, Commissions ("the Policy")				
<b>Requester</b>	LOC – Prior Term	<b>Drafter</b>	Krystal John	<b>Analyst</b>	Tani Thurner
<b>Reason for Request</b>	Amendments requested in the previous term that would have reconciled the Policy with proposed amendments to the Election Law; however that law has not been amended yet. Additional changes were made based on LOC and OBC work meetings.				
<b>Purpose</b>	This Law governs the application process for seeking appointment or election to a Tribal entity, and includes requirements related to member stipends and compensation, vacancies on an entity, bylaws, and various other requirements related to Tribal boards, committees and commissions.				
<b>Authorized/ Affected Entities</b>	Tribal Secretary's Office, Tribal Chair, all Tribal boards, committees and commissions; and all persons seeking election or appointment to an entity.				
<b>Due Process</b>	n/a				
<b>Related Legislation</b>	Election Law, any other laws that set out requirements for a Tribal board, committee or commission.				
<b>Enforcement</b>	New provisions are added which would enable the OBC to suspend the payment of stipends to an entity until the entity comes into compliance with this Law (except for the Gaming Commission, the OBC may impose fines of \$50-100 for members found to be in noncompliance, or suspend all "employment benefits that are not essential to the Member's employment requirements as a condition of gaming licensing, for example, non-essential travel.") [11-6]				

2

### Overview

3

The proposed amendments to the Policy:

4

- Address what happens when the OBC rejects a person selected by the Tribal Chair for appointment to a Tribal board, committee or commission (hereinafter: entity).

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- Clarify that a member's status as an elected or appointed official is based on the status of the entity, regardless of whether the member is appointed or elected.

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- Enable entities to make recommendations to the Chair regarding which applicant to appoint to their entity.

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- Enable an appointed entity to seek termination of appointment for one of its members, for specific misconduct.

11

12

- Update the requirements for providing notice to applicants seeking appointment or election.



Draft 06 – Public Meeting  
2015 12 03

- Change the requirements for how the Secretary must post notice of vacancies.
- Adding requirements for what an entity's bylaws must contain, including detailed reporting requirements.
- Add that if a person is removed from office or has his/her appointment terminated, then s/he is ineligible for appointment or election to any entity for at least 1 year.
- Make additional changes to update and streamline the policy.

### **Chairperson's selection of a candidate for appointment**

This Policy sets out the process for a person to be appointed to serve on an entity – the Tribal Chair selects a candidate, and brings that selection to the entire OBC, who will vote on the appointment. However, the current Policy does not identify what should happen if the OBC rejects the person selected by the Chair. To clarify, the amendments now require that once the Chair has selected an applicant for appointment, the Chair must forward the entire list of qualified applicants to the OBC, not just the Chair's selected applicant; and if the OBC rejects the applicant selected by the Chair, then the OBC shall, by majority vote, do one of the following – but these steps “must be taken in progressive order to provide deference to the Chair's decision making authority:”

1. Direct the Chair to prepare another recommendation, or
2. Approve another applicant from the list of qualified applicants, or
3. Direct the vacancy to be re-posted. [6-2(c)]

### **Member Status as Appointed or Elected**

A new provision clarifies that, regardless of whether a Member is appointed or elected to serve on an entity, the member's status as appointed or elected is based on how the entity is classified by their own bylaws. [6-1(a) and 7-1(a)]

This change was made to address members *appointed* to serve on an entity that is primarily made up of elected members. Generally, this situation happens when a vacancy occurs while there is not much time left in a term, and there are some positions (i.e. alternates for the Election Board) that are appointed while most of the entity's positions are elected.<sup>1</sup>

<sup>1</sup> **Matt Denny:** For Boards, Committees and Commissions role in terminating appointed positions, my question would be, for the elected positions, specifically the Gaming Commission, we just had an incident that happened with an elected official, and here you allow something for the appointed position to be terminated, can the elected positions be terminated as well?

**Brandon Stevens:** I think so, yea, where we're going in the direction is having the misconduct kind of written out to say that these are some of the things that are not discretionary. So let's say you become ineligible based on the requirements of having the position, those are easier to say there is no discretion involved and that can follow a process. So, yea, that's the direction we are going in.

**Matt Denny:** I'm just saying this says just for appointed, does it also include the elected? I am looking at line 40 on page 2. Is this going to cover elected officials then?

**Krystal John:** Elected officials are subject to the Removal Law.

**Matt Denny:** So this doesn't cover elected officials then?

**Krystal John:** It covers elected officials.

**Brandon Stevens:** But the removal, you are talking more so the removal part of that. Let's say elected official...

**Matt Denny:** You're allowing an appointed person to be terminated from a Board, Committee or Commission...

**Krystal John:** I'm sorry, I am nervous I am not picking up his comments for transcription, if you want to sit here please.

**Matt Denny:** On page 2 there, of what I just read, on line number 40, it talks about an appointed entity seeking termination, but the Gaming Commission is not an appointed entity, it is an elected entity, does something in this document cover that elected official ... from not being eligible...

**Krystal John:** Being removed?

**Matt Denny:** No, not necessarily removed. Here you are talking about if you fail to meet and retain the requisite qualifications per the entity's bylaws, that has to deal with an appointed entity, but I am asking does this also cover, the appointed or the elected entities?



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The main effects of this new provision are to clear up confusion related to stipends – members serving on appointed entities are limited to only earning one \$50 meeting stipend per month; but elected members are not subject to that limitation and can have multiple meetings in a month, and/or a higher stipend amount.

**Board, committee, commission role in determining appointed positions**

Under the amendments, appointed Tribal entities are given more of a role in determining their own membership. Changes include:

- Entities are now allowed to provide recommendations to the Tribal Chairperson when s/he is selecting an applicant for appointment to their entity; the Tribal Chairperson “may” consider any recommendations provided by the entity. [6-2(b)] Although not addressed in the current Policy; some entities already include similar provisions in their bylaws.
- A new provision is added that would enable an appointed entity to seek termination of appointment for one of its members for specific violations, which include:
  - Failure to meet and maintain the requisite qualifications per the entity’s bylaws
  - Breach of confidentiality
  - 3 or more unexcused absences (not giving 24 hours’ advance notice)
  - 4 or more consecutive absences – regardless of whether they are excused or not.
  - Any other cause for termination established in the entity’s bylaws.
  - Violations of Tribal law
  - Conduct that is detrimental to the entity’s reputation or that inhibits the Entity’s ability to fulfill its responsibilities. [6-5(a)]

**Required Notice for Applicants**

Various changes were made to align this Policy with the Election Law and to clarify how this Policy applies to elected officials:

- Currently, “application” is defined the process by which a person proceeds to be appointed to a vacancy. The amendments clarify that it is a form, not a process, and that it is also used by a person who seeks to be considered as a candidate for an election. [3-1(a)]

**Brandon Stevens:** So it would not, so you’re asking, or your suggestion is that there should be a provision that that would allow the termination or removal of an elected official based on the requirements not being adhered to at any given time in their their or their election or...

**Matt Denny:** Yea I think it should be considered anyway, I don’t know the elected law by heart or anything.

**Brandon Stevens:** Okay.

**Matt Denny:** When an elected official becomes ineligible, and the Gaming Commission has specific eligibility requirements, there is nothing, besides the Removal Law, that addressed what can happen.

**Brandon Stevens:** Yea.

**Matt Denny:** But in this document you have it for the appointed positions and I just want to know, can it be in there for an elected position, maybe make it specific to the Gaming Commission only, not to put the BC in the same position, because we are kind of similar. But, I would like to see something to cover the Gaming Commission I guess is what I’m saying.

**Brandon Stevens:** Okay, yes, we will take that as a comment and we will look to see how we can process that because I understand.

**Matt Denny:** Yea because it just says appointed here, and I don’t want it to be just, because it doesn’t fall underneath us, I want something for us.

**Brandon Stevens:** Yea, it’s the same thing with the Business Committee, so if we have to be required to live within the boundaries or Outagamie or Brown County. So say if I move to Florida, what happens if I say, “No, I’m not going to resign”?

**Matt Denny:** And that’s the only question I had was that.

**Brandon Stevens:** Okay.

**Matt Denny:** It’s for appointment and nothing and for elected, I know there is a difference, but I just wanted to see if that could be covered.

**Brandon Stevens:** Okay, alright, thank you. So if there is no other comments on that, we will move to the Administrative Rulemaking.

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- At the end of a posted application deadline, the Secretary (for applicants seeking appointment) and Election Board (for applicants seeking to run for an election) are still required to provide notice to all applicants. Notice is no longer required to be sent by postcard, but now must be formatted the same for all applicants and must include certain information listed in the Policy.[4-5] The main changes include:
  - All applicants must be notified of the applicable duties they will have if they should be elected/appointed to the seat they are seeking. [4-5(a)(4)]
  - All applicants must be provided with notice of the taxability of stipend payments and their responsibility to document their expenses related to that income. Currently, this information is only required to be provided to those actually elected or chosen for appointment. [4-5(a)(5)]

#### **Posting Notice of Vacancies**

- The Secretary must still post notice of vacancies in the Kalihwisaks and at any reasonable location requested by the Entity. However, notice is required to be posted on the Tribal website instead of: in the Tribal Secretary's Office, various buildings, and in OBC minutes. [5-5]
- A new provision adds that if there is an administrative/clerical error in the posted notice, the Secretary may repost the notice of vacancy as soon as practicable after noticing the error; and without needing to obtain permission from the OBC first. When a notice is re-posted, prior applicants will be considered to have filed applications within the deadline period. [5-6]
- The Secretary is no longer specifically responsible for notifying entities when notice of a vacancy must be posted and instead, the Entity would be responsible for notifying the Secretary whenever a position becomes vacant; so that the Secretary can post notice. [5-3]
- Instead of identifying when notice must be posted after a vacancy, the amended Policy identifies deadlines for when the Secretary must request permission from the OBC to post notice of vacancies, which generally must be posted "within a reasonable time" after the OBC grants permission. [5-4]
  - Currently, the Secretary can automatically post notice 30 days before the end of a term, but the amended Policy would require the Secretary to obtain OBC permission first. However, for these notices, the Secretary may request permission "on an annual basis" – i.e. obtain permission for all such postings at once. [5-4]

#### **Penalties for Noncompliance**

Currently, the Policy does not address what happens if an entity fails to comply with this Law. The amendments add that (with one exception) if an entity fails to comply with the requirements of this Policy, the OBC may suspend its' members' stipends until the Entity has demonstrated to the satisfaction of the OBC that the entity has attained compliance. [11-6]

The one exception to this new rule states that if the Oneida Gaming Commission fails to comply with this Policy in matters not governed by ONGO, then the OBC may do either or both of the following:

- Impose a fine of \$50-\$100 on any or all members found to be in noncompliance,



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- Suspend all “employment benefits” that are not essential to the Member’s employment requirements as a condition of gaming-licensing, “for example, non-essential travel”. [11-6(a)]

### **Changes to the Requirements for Bylaws**

Under the amendments, section 8-4 is amended to include additional requirements for what an entity’s bylaws must contain.

- Whether the entity is an elected or appointed body (not just how members are elected or appointed).
- A comprehensive list of all trainings that the entity deems necessary for members to responsibly serve the entity. This provision is added because 11-7 states that members are not eligible for conference stipends (the definition of conference includes training) unless required by law, bylaw or resolution.
- Specific identification of which officers have authority to sign off on travel on behalf of the entity.
- Any causes for termination or removal in addition to those identified in this Policy and Removal Law.
- Provisions governing special meetings – stating how special meetings may be called and must be noticed. At a minimum, notice must be published on the community calendar on the Tribe’s website at least 24 hours before the meeting.
- New notice requirements:
  - Entities must provide public notice of regular meetings by posting the dates, time and location once annually in the Tribe’s newspaper and by submitting that information to the Intergovernmental Affairs and Communications Department to be included on the community calendar on the Tribe’s website.
  - Entities must post public notice of emergency meetings and special meetings at least 24 hours in advance on the Tribal website, and must provide the Secretary’s Office with notice of the meeting and the basis of the emergency. (There is no timeline for providing this information to the Secretary’s Office).
- This provision: “In order to justify holding an emergency meeting, the [insert Entity name] 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.” [8-4] Although this provision does not identify who must be provided with the reason for an emergency meeting, new quarterly reporting rules (discussed below) also require each entity to indicate whether any emergency or special meetings were held, and if so, to identify the basis of the emergency meeting or reason for the special meeting, and the topic of the meeting.

### **Reporting Requirements**

Currently, the Policy only discusses reporting to the OBC member that is the entity’s liaison. New language is added that also requires entities to make and submit:

- Quarterly reports to the OBC, based on a reporting schedule created by the Secretary. The reporting schedule must be approved by the OBC and posted on the Tribe’s website.
- Annual Reports to GTC based on the entities’ activities during the previous fiscal year.
- Semi-Annual Reports to GTC based on the entities’ activities during the current fiscal



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year. (For these, the entity is mostly only required to update any information that has changed from the annual report, or to provide additional information on progress since the previous report.)

The Policy comprehensively identifies what information must be included in entities' reports to the OBC and GTC – the list of requirements in the Policy is four pages long. Not only must each entity provide reports for their own entity, but they must also provide reports containing most of the same information for each department the entity oversees. [8-4(d)(4)(a)]

### **Miscellaneous Changes**

Language is revised throughout the Policy so that those persons appointed and elected to serve on entities are no longer referred to as “officials” but as “members” instead. [3-1(h)]

The definition for “Immediate Family” changed so that it no longer includes a spouse’s grandchildren or grandparents. [3-1(f)]

Language clarifies that a member’s removal from office is effective “upon a determination to Remove pursuant to the Removal Law” instead of under adopted and approved procedures of the entity. [5-2(b)]

A new provision clarifies that when the OBC terminates a member’s appointment; that decision cannot be appealed. [6-5]

An application form and sample format form are deleted. Any application form must still be generated by the Secretary and approved by the OBC. [4-1]

The amendments add that whenever the Law Office is notified of noncompliance with any Policy regarding the use of Tribal assets, either the OBC or Law Office will make a determination of any further action to be taken. Currently, only the Law Office has authority to determine any further action to be taken. [13-23]

Various other minor changes have been made to improve the readability and quality of this Policy. These changes did not affect the content of the Policy.

A public meeting has not been held.

### **Considerations**

The following are issues the LOC may want to consider:

- 6-1 now provides that a members’ status as an elected or appointed official is now based on the status of the entity. As written, this means that members appointed to an elected entity would not be subject to termination of appointment – they would be subject to removal; which is a much more complicated process. This also means that an elected entity could not request termination of appointment for appointed members like appointed entities could. This is a policy call.
- Various changes were made to 8-4, which specifically identifies information that must be included in an entity’s bylaws. These changes will result in all existing bylaws being noncompliant with this Policy until they are amended. This may need to be addressed in the adopting Resolution; it may be beneficial to review all entities’ bylaws.
- Comprehensive reporting requirements were placed under 8-4(d), which states “Article IV. Reporting is to consist of the following information” – the requirements that were added, identifying specific reporting requirements, are several pages long and often repeat



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requirements from other related provisions. It may be easier to understand if separate requirements were combined instead of repeated.

- 11-7 states that “A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.” However, it is not clear if this means a resolution of the entity, or of the OBC, or GTC. Some entities, such as the School Board, have adopted Resolutions in the past, and there is nothing prohibiting other entities from doing so.
- There are a few provisions that may benefit from clarification:
  - 5-4(e): “Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following the completion of the term the interim Member was designated to hold.”
    - This appears to require notice to be posted after the end of the term the notice was posted for.
  - 5-6 In the event that there is an administrative/clerical error in the Secretary’s posted notice of Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as practicable after noticing such error. Under these limited circumstances, the Secretary does not require permission from the Oneida Business Committee to repost notice of the Vacancy. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.”
    - This provision does not clearly state that the Secretary may change the deadline period, and so the last sentence may cause confusion. It may be beneficial to clarify intent.
  - 11-6. If an Entity, other than the Oneida Gaming Commission, fails to comply with the requirements of this Policy, the Oneida Business Committee may suspend the Entity’s Members’ Stipends with payment of Stipends resuming moving forward once the Entity has demonstrated to the satisfaction of the Oneida Business Committee that it has attained compliance herewith.
    - It is not clear as to whether members would still be paid any stipends earned during the suspension, or whether they stop earning stipends during that time.
  - 11-6(a) If the Oneida Gaming Commission fails to comply with the requirements of this Policy ...In addition, either in lieu of the fine or in addition to the fine, the Oneida Business Committee may suspend all employment benefits that are not essential to the Member’s employment requirements as a condition of gaming licensing, for example, non-essential travel.
    - The intent is not clear; because this could be interpreted to mean employment benefits such as health insurance; and also because this could be interpreted to mean that non-essential travel is an employment benefit of the Gaming Commission. It is recommended that the specific employment benefits that could be suspended be identified in the Policy.
- There are various words in this Policy that are capitalized when they are used; however it has never been standard drafting practice to do this. Capitalizing words in the middle of a sentence may confuse readers, and often looks like a typographical error. It is not necessary to capitalize words just because they are defined, and it is recommended that this Policy be revised to either un-capitalize words that are not normally capitalized; or to ensure that any



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words that are capitalized, are done so consistently – not all defined words are capitalized throughout the Policy; and most of the defined words are still not always capitalized.

Additional minor language issues have been identified and will be discussed with the sponsor.

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## Comprehensive Policy Governing Boards, Committees and Commissions Yolihwakwe·kú Kayanl'áhsa? yethiya'tanú·nha tsi? ka·yá lonatlihu·tú·

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### Article I. Purpose and Policy

1-1. It is the purpose of this Policy to govern the standard procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws, maintenance of official records, compensation, and other items related to boards, committees and commissions.<sup>2</sup> This Policy does not apply to the Tribe's corporations due to the corporate structure and autonomy of those Entities.

1-2. It is the Tribe's policy to have consistent and standard procedures for choosing and appointing the most qualified persons to boards, committees and commissions, for creation of by-laws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

### Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution # BC-8-2-95-A and amended by resolutions # BC-5-14-97-F, # BC-09-27-06-E, # BC-09-22-10-C and # BC-

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

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

2-4. In the event of a conflict between a provision of this Policy and a provision of another law or policy, this Policy controls, provided that the requirements of the Oneida Nation Gaming Ordinance supersede the provisions of this Policy in regards to the Oneida Gaming Commission.<sup>3</sup>

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

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<sup>2</sup> Lisa Summers: *written* - I agree with the clarification that this policy applies to both appointed and elected boards, committees, and commissions.

<sup>3</sup> Lisa Summers: *written* - With the deletion of 2-4. of the current law, how will this policy address the stipend inconsistencies? 2-4.



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### Article III. Definitions

3-1. This Article governs the definitions of words and phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

- a. "Application" means the form by which a person seeks to be appointed to a<sup>4</sup> Vacancy or considered as a candidate for an election.
- b. "Appointment" means the process by which a person is chosen to fill a Vacancy.
- c. "Chairperson" means the current elected Chairperson of the Tribe or his or her designee.
- d. "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.<sup>5</sup>
- e. "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose Members are appointed by the Oneida Business Committee or elected by the Tribe's membership.
- f. "Immediate Family" means the husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law.<sup>6</sup>
- g. "Member" means any person appointed or elected to membership on an Entity.
- h. "Stipend" means that amount paid by the Tribe to persons serving on boards, committees and commissions of the Tribe to offset the expenses of being a member on the board, committee or commission.
- i. "Task Force or Ad Hoc Committee" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.
- j. "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.
- k. "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- l. "Secretary" means the current elected Secretary of the Tribe or his or her designee.
- m. "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, creation of a new position or end of an designated interim term.

### Article IV. Applications

4-1. The Secretary shall generate, and the Oneida Business Committee must approve, the application form required to be used by all applicants.

4-2. Application forms must contain:

<sup>4</sup> Lisa Summers: written - Insert "fill"

<sup>5</sup> Lisa Summers: written - I suggest adding the definition of "Training" instead of expanding the conference definition. Trainings may be mandatory and should be considered separately from seminars, meetings, etc.

<sup>6</sup> Lisa Summers: written - I agree with deletion of "second cousin" that was included in previous draft. There should be a consistent definition of "Immediate Family" in all laws & policies.

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a. questions designed to obtain the applicant's

1. name;
2. address;<sup>7</sup>
3. phone number;
4. enrollment number;<sup>8</sup> and
5. position applied for.

b. additional questions, if necessary, to obtain information necessary to make an informed decision as to the qualifications of any individual to fill a Vacancy.

4-3. All applicants shall file their Applications with the Secretary by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the Secretary within five (5) business days of the deadline.

4-4. The Election Board shall verify all Applications for elected positions in accordance with the Oneida Election Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all Applications for appointed positions as needed or as required by the Entity's by-laws<sup>9</sup> to ensure the eligibility and qualification requirements are met.

4-5. At the completion of the posted deadline for filing Applications<sup>10</sup>, the Election Board shall provide notice to all persons who have filed an Application for an elected position and the Secretary shall provide notice to all persons who have filed an Application for an appointed position.

a. Such notice must be formatted the same for all applicants and must minimally include the following:

1. the date the applicant's Application was filed;
2. whether the applicant meets the eligibility requirements as determined by the Entity's by-laws and will be considered for the election/appointment;
3. a note that further information can be requested by contacting the party sending the notice and providing such contact information;
4. the applicable duties should the applicant be selected; and
5. if eligible for election/appointment:

"The Oneida Tribe reports all income paid by the Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an

**7 Lisa Summers: written** - "mailing address" and "physical or street address" should also be included. Applicants may provide a physical or street address at which they do not receive mail. In addition, some boards, committees, and commissions, such as the Trust/Enrollment Committee, have a residency requirement that needs to be verified.

**8 Lisa Summers: written** - Date of Birth should also be added. Some boards, committees, and commissions, such as ONCOA, have an age requirement that needs to be verified. In addition, if an applicant provides the incorrect enrollment number, the date of birth may be utilized to verify enrollment with the Enrollment Department.

**9 Lisa Summers: written** - This same statement should be included for the Election Board as well, to ensure they are working from the by-laws and from no other source of information, such as the website, which may have errors.

**10 Lisa Summers: written** - Does this include the extra five (5) days for postmarked applications referenced in section 4-3.? I think this needs to be clear.



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IRS Form 1099<sup>11</sup> which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the Chairperson shall elect to either:<sup>12</sup>

- a. Allow late Applications to be included within the applicant pool, or
- b. Repost the Vacancy for an additional time period.<sup>13</sup> In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

## Article V. Vacancies

5-1. This Article governs when Vacancies occur, and where and when notice of the Vacancies must be posted.

5-2. The following Vacancies are effective as listed herein:

- a. End of Term. A Vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends according to the Entity's by-laws.
- b. Removal. Removal is effective as identified in the Removal Law.
- c. Resignation. A resignation is effective upon:
  1. Deliverance of a resignation letter to the Entity; or
  2. The Entity's acceptance by motion of a verbal resignation.
- d. Termination of Appointment. A termination is effective upon a two-thirds (2/3) majority vote of the entire Oneida Business Committee in favor of a Member's termination of appointment.
- e. New Positions. Vacancies on new Entities and for new positions on existing Entities are effective upon adoption/amendment of by-laws.
- f. Interim Positions. Vacancies of interim positions are effective upon creation by the Oneida Business Committee or General Tribal Council.

5-3. Entities shall notify the Secretary as soon as any position(s) becomes vacant so that the Secretary may post the notice of Vacancy in order to fill the Vacancy in accordance with the requirements of this Article.

5-4. Except as expressly stated otherwise, the Secretary shall request permission from the Oneida Business Committee prior to posting notice of a Vacancy as set out in this Article and

11 **Lisa Summers:** *written* - The tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence "You will receive the applicable IRS tax form..."

12 **Lisa Summers:** *written* - Because this is discretionary, I believe it should be the entire Business Committee's responsibility to make the decision. There is no point in requiring the Secretary to enforce a deadline if that enforcement can be undone; this discretion could cause unnecessary conflict.

The other option to address my concern would be to disallow late applications.

Lastly, at this point, how is the Chair in possession of the applications in order to make this determination? There is not indication the Chair's office is notified of insufficient applicants. Another option would be for the Secretary, who is in possession of the applications in the previous section to place this on the next Business Committee meeting for consideration to allow late applications or repost.

13 **Lisa Summers:** *written* - If the Chair elects to repost the vacancy, how will this posting occur? Will the request go to the Business Committee for acceptance? How will the reposting happen? I don't believe it is clear.



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shall post notices of Vacancy within a reasonable time of the Oneida Business Committee's grant of permission, in accordance with the following:

a. End of Term. The Secretary may request permission to post notice of Vacancies for positions becoming vacant due to term completions on an annual basis; the notice of Vacancy for each term completion must be posted thirty (30) days in advance of each term completion.

b. Removal. Permission to post notice of Vacancies based on removal must be requested no later than the first Oneida Business Committee meeting following the effective date of the removal.

c. Resignation. Permission to post notice of Vacancies based on resignation must be requested no later than the first Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the Entity.

d. New Positions. If the Oneida Business Committee or General Council does not specify a date for posting new positions when creating an Entity, the Secretary shall request permission to post Vacancies for new positions no later than the first Oneida Business Committee following the later of either the creation of the Entity or the adoption of the Entity's by-laws.

e. Interim Members. Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following the completion of the term the interim Member was designated to hold.

f. Termination of Appointment. Permission to post notice of Vacancies based on termination of Appointment must be requested no later than the first Oneida Business Committee meeting following the effective date of the termination.

5-5. After receiving permission from the Oneida Business Committee, the Secretary shall post notice of Vacancies in each of the following locations:

- a. on the Tribe's website;
- b. in the Kalihwisaks; and
- c. any reasonable location requested by the Entity.

5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as practicable after noticing such error. Under these limited circumstances, the Secretary does not require permission from the Oneida Business Committee to repost notice of the Vacancy.<sup>14</sup> In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

## Article VI. Appointed Entities<sup>15</sup>

6-1. All appointments must be made by the Oneida Business Committee at regular or special

<sup>14</sup> Lisa Summers: *written* - A requirement that notice be provided to the Business Committee no later than the next meeting should be included.

<sup>15</sup> Lisa Summers: *written* - I believe appoints should be made at the by end of the first quarter of each BC term. All appointed terms would be every 3 years and truly serve at that BC's discretion. If this were approved, the other comments made may not apply. I can provide a transition plan for this to become effective with the next BC.



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Oneida Business Committee meetings, provided that, no applicant may be appointed who fails to meet the requirements set out in the Entity's by-laws.<sup>16</sup>

a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.<sup>17</sup>

6-2. The following procedures must be used to determine which applicant is appointed:

a. Within five (5) business days after the application deadline and notice has been provided pursuant to Article 4-5<sup>18</sup>, the Secretary shall deliver to the Chairperson all eligible Applications, as verified by the Secretary, along with a summary of qualifications to hold office.

b. When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. Within a reasonable time,<sup>19</sup> the Chairperson shall either:

1. choose an applicant(s) for appointment, or
2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified applicant pool.<sup>20</sup>

c. Once the Chairperson has made a selection, he or she shall forward the list of qualified applicants along with his or her selected applicant(s) to all Oneida Business Committee members. Based on the information provided, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting, either accept or reject the Chairperson's selected applicant(s).

1. If the Chairperson's applicant(s) are rejected by the Oneida Business Committee, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting, take one (1) of the following actions, provided that they must be taken in progressive order to provide deference to the Chairperson's decision making authority:

- A. Direct the Chairperson to prepare another recommendation; or
- B. Approve another applicant from the list of qualified applicants; or
- C. Direct the Vacancy to be re-posted.

6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest

<sup>16</sup> Lisa Summers: *written* - Do interim appointments need to meet all of the requirements as well? This question has come up in the past.

<sup>17</sup> Lisa Summers: *written* - I understand the intent of this section, but it may need to be moved to a different section of Policy and not under "Appointed Entities".

<sup>18</sup> Lisa Summers: *written* - I don't think this timeline fits section 4-3. which allows applications that are postmarked by the deadline, and received within five (5) business days to be considered. Time is needed for the Secretary to verify eligibility in accordance with section 4.4.

<sup>19</sup> Lisa Summers: *written* - Due to the inclusion of a designee in the definition of Chairperson, I suggest adding a timeframe e.g. "within 30 days" or something to that effect.

<sup>20</sup> Lisa Summers: *written* - As with 4-6.b., if the Chair elects to repost the vacancy, how will this posting occur? Does the request go to the Business Committee for acceptance?



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upon taking the oath. The Secretary shall notify the chosen persons when they should appear for taking the oath.<sup>21</sup>

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary.

1. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the (Entity name), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.

- e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

6-4.<sup>22</sup> The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include the following:

"The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099<sup>23</sup> which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

6-5. *Termination of Appointment.* Appointed Members of Entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Chairperson, a Member of an appointed Entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds (2/3) majority vote of the entire Oneida Business Committee.

- a. An Appointed Entity may bring a request for termination of a Member to the Oneida Business Committee by asserting that there is cause for termination based on one (1) or more of the following:

21 **Lisa Summers:** *written* - Delete this line, if comment #21 regarding the reordering of sections 6-3. and 6-4. is accepted.

22 **Lisa Summers:** *written* - This section should be moved between 6-2. and 6-4. Include requirement to notify the chosen persons when they should appear for taking the oath.

23 **Lisa Summers:** *written* - As with section 4-5.a.5., the tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence "You will receive the applicable IRS tax form..."



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1. Failure to meet and maintain the requisite qualifications as identified in the Entity's bylaws.
  2. Breach of confidentiality.
  3. Accumulation of three (3) or more unexcused absences from required meetings or other Entity responsibilities in the Member's term, where an absence is unexcused if the appointed Member fails to provide twenty-four (24) hours of notice of an anticipated absence.
  4. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.
  5. Any other cause for termination established in the Entity's by-laws.
  6. Violations of Tribal law.
  7. Conducting him or herself in a manner that is detrimental to the Entity's reputation or that inhibits the Entity's ability to fulfill its responsibilities.
- b. The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

#### Article VII. Elected Entities

7-1. To serve on an elected Entity, a person must either be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement in accordance with the Oneida Election Law, except as otherwise provided herein.

a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.<sup>24</sup>

7-2. All other processes must be as directed in the Oneida Election Law. In addition to these processes, all applicants must be notified of the final results of the election. Notices<sup>25</sup> to those elected must include the following<sup>26</sup>:

"The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report<sup>27</sup> which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

7-3. All elected positions are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest upon taking the oath.

24 Lisa Summers: written - I understand this is the same as section 6-1.a., but it doesn't seem to fit here either.

25 Lisa Summers: written - This section appears to state the Secretary will notify all candidates of the official election results? If so, there needs to be consideration for the Secretary to maintain the applicant record or application for elected positions as currently in most situations this does not occur.

26 Lisa Summers: written - Include requirement to notify those elected when they should appear for taking the oath.

27 Lisa Summers: written - This section should match sections 4-5.a.5 and 6-4.

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- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:  
  - I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.
  - I will carry out the duties and responsibilities as a member of the (entity name), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.
- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.
- e. All oaths must be sufficient to make the appointee<sup>28</sup> aware of his or her duty to the Tribe as a Member of the Entity.

#### **Article VIII. By-laws of Boards, Committees and Commissions**

- 8-1. By-laws of all Boards, Committees and Commissions must conform to this outline. All existing Entities shall comply with this format and present by-laws for adoption within a reasonable time after creation of the Entity.<sup>29</sup> By-laws must contain this minimum information, although more information is not prohibited.
- 8-2. Specifically excepted from this Article are Task Forces and Ad Hoc Committees. However, these Entities must have, at a minimum, mission or goal statements for completion of the task.
- 8-3. All by-laws must contain the following Articles:
  - a. Article I. Authority.
  - b. Article II. Officers
  - c. Article III. Meetings
  - d. Article IV. Reporting
  - e. Article V. Amendments<sup>30</sup>
- 8-4. Sub-articles. Articles must be divided into the sub-articles provided below.
  - a. "Article I. Authority" is to consist of the following information:
    1. Name. State the full name of the Entity and any short name that will be officially used.
    2. Authority. State the name of the creation document and provide the citation for such creation document, if any.
    3. Office. Provide the official office or post box of the Entity.

<sup>28</sup> Lisa Summers: written - They are not appointees, they are elected Members.

<sup>29</sup> Lisa Summers: written - A six (6) month timeframe should be included in the adoption resolution as well.

<sup>30</sup> Lisa Summers: written - Insert "Article V. Compensation" to differentiate full-time/part-time salaried, elected v. stipended. Article V. Amendments becomes Article VI. Amendments.



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4. Membership<sup>31</sup>. Provide the following information:

A. Number of Members;<sup>32</sup>

B. Whether the Entity is an elected or appointed body and how Members are elected or appointed;

C. How Vacancies are filled<sup>33</sup>

D. The requisite qualifications for Membership<sup>34</sup>.

E. Causes for termination or removal, if any, in addition to those contained under Article 6-5.a. hereof and the Removal Law.

5. Stipends. Provide a comprehensive list of all Stipends Members are eligible to receive and the requirements for collecting each Stipend, if any in addition to those contained in this Policy.

6. Trainings. Provide a comprehensive list of all trainings that the Entity deems necessary for Members to responsibly serve the Entity.<sup>35</sup>

b. "Article II. Officers" is to consist of the following information:

1. Chair and Vice-Chair. This section creates the positions of the Entity. Other positions may also be created here.

2. Chair duties. Because of the importance of this position, specifically list the chairperson's duties and limitations.

3. Vice-Chair duties. Because of the importance of this position, specifically list the vice-chairperson's duties and limitations.

4. Additional Offices<sup>36</sup> and Duties. Include additional sub-articles to specifically list duties and limitations for every office<sup>37</sup> created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.

5.<sup>38</sup> How chosen. Specifically state how a Member of the Entity will be chosen

31 **Lisa Summers: written** - Insert sub-section for "E-mail address", noting it must be an authorized email and it is the official email of the Entity.

32 **Lisa Summers: written** - I believe we need to limit all membership, except where provided by law, to five (5) Members. I can provide a transition plan to achieve through attrition.

33 **Lisa Summers: written** - We currently have many different versions of this section. Some elected Entities make their own appointment to fill a vacancy and it is simply accepted by the Business Committee, some are required to provide a recommendation to the Chairperson.

This Policy provides the uniform process for appointed Entities. This Policy and the Election Law provide the uniform process for elected Entities. The process should be the same for all Entities. I believe this line should be deleted.

34 **Lisa Summers: written** - There should be minimum qualifications included here. For any Entity, a Member must meet some standard set by this Policy. The By-laws may exceed these minimum qualifications, but not fall lower the minimum set by the Policy.

35 **Lisa Summers: written** - Training plans should be approve by the GTC for elected Entities or the BC for appointed Entities.

36 **Lisa Summers: written** - Change to "Officers". "Offices" connotes a department or staff and is unclear.

37 **Lisa Summers: written** - Change to "officer". Same as comment #35

38 **Lisa Summers: written** - Add sub-section regarding "Sign Off Authority" and its limitation. Statement in sub-section 4. Relates to travel only, the Sign-Off needs to be designated and limited for other budget items as well, such has supplies, meeting materials, stipends, etc.



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to occupy an officer's position.

6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.<sup>39</sup>

c. "Article III. Meetings" is to consist of the following information:

1. Regular meetings. State when and where regular meetings are to be held, and, explain how notice of the meeting, agenda, documents, and minutes will be provided.<sup>40</sup> At a minimum, the Entity shall provide public notice of regular meetings by posting<sup>41</sup> 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.<sup>42</sup>

2. Emergency meetings. State how emergency meetings may be called and must be noticed, provided that, at a minimum, the Entity 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.<sup>43</sup> Further, the Entity shall provide the Secretary's office with notice of the meeting and the basis of the emergency.

"In order to justify holding an emergency meeting, the [insert Entity name] 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. Special meetings. State how special meetings may be called and must be noticed, provided that, at a minimum, the Entity 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.<sup>44</sup>

4. Quorum. State how many Members create a quorum.<sup>45</sup>

39 *Lisa Summers: written* - If an Entity has full Officers, e.g. the Entity has a Secretary, there is no need for personnel. There should be limitations and/or parameters for personnel included in the Policy.

40 *Lisa Summers: written* - Notice of all meetings should be in compliance with the Open Records and Open Meetings Law. If this comment is not accepted, please consider comments #41 and #42.

41 *Lisa Summers: written* - "requesting the posting of" The Entity cannot "make" the Tribe's newspaper publish their information. Additionally, most Entities will not have access to the community calendar, there for they should "request the posting of" in this case as well.

42 *Lisa Summers: written* - "on"

43 *Lisa Summers: written* - Again, notice should be in compliance with the Open Records and Open Meetings law.

44 *Lisa Summers: written* - Again, notice should be in compliance with the Open Records and Open Meetings law.

45 *Lisa Summers: written* - "State how a quorum is determined." Entities have had issues with getting a quorum



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- 610 5. Order of Business. Explain how the agenda will be set.  
611 6. Voting. Provide voting requirements, including the requisite percentages for  
612 passing different items and when, if at all, the chairperson may vote.  
613 d. "Article IV. Reporting" is to consist of the following information:  
614 1. Agenda items. Agenda items must be in an identified and consistent format.  
615 2. Minutes. Minutes must be typed and in a consistent format designed to  
616 generate the most informative record of the meetings of the Entity.  
617 3. Attachments. Handouts, reports, memoranda, and the like may be attached to  
618 the minutes and agenda, or may be kept separately, provided that all materials  
619 can be identified based on the meeting in which they were presented.<sup>46</sup>  
620 4. Reporting. Entities shall report to their Oneida Business Committee member  
621 who is their designated liaison intermittently as the Entity and the liaison agree  
622 to, but not less than as required in any policy on reporting developed by the  
623 Oneida Business Committee or Oneida General Tribal Council. Entities shall  
624 also make quarterly reports to the Oneida Business Committee and annual and  
625 semi-annual reports to the Oneida General Tribal Council as described below:  
626 A. Quarterly Reporting: Entities shall make quarterly reports to the  
627 Oneida Business Committee based on the reporting schedule created by  
628 the Secretary, approved by the Oneida Business Committee and posted  
629 on the Tribe's website. At a minimum, the quarterly reports must contain  
630 the following information:  
631 i. Names: Provide the name of the Entity, the Member  
632 submitting the report, and the Oneida Business Committee liaison,  
633 and a list of the Members and their titles, their term expiration  
634 dates and contact information.  
635 ii. Minutes: Any required updates to meeting minutes previously  
636 submitted and approved by the Oneida Business Committee  
637 including any actions that have been taken and were not included  
638 in the meeting minutes previously approved by the Oneida  
639 Business Committee.<sup>47</sup>  
640 iii. Financial Reports: Include if specifically requested by the  
641 Oneida Business Committee or if required by the Entity's by-  
642 laws.  
643 iv. Special Events and Travel During the Reporting Period:  
644 Report any special events held during the reporting period and

when a specific number is identified in this section. Those Entities may want to consider another deamination of a quorum, such as "a majority of current Members".

46 **Lisa Summers:** *written* - Although Article IX. provides direction on what Entities do with their minutes, additional direction may be needed for any other records, such as agendas and handouts. Another option is to include a reference to the Open Records and Open Meeting law.

47 **Lisa Summers:** *written* - Section needs to be reworded as it appears to contradict section 9-3. Perhaps the same section needs to be included here as well.



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any travel by the Members and/or staff. Travel reports must include the following:

a. Which Member(s) and/or staff traveled;  
b. Where the Member(s) and/or staff traveled to and the travel dates;

c. The purpose for the travel and a brief explanation of how the travel benefited the Tribe;

d. The cost of the travel and how the cost of the travel was covered by the Entity; and

e. Whether the cost of travel was within their budget and, if not, an explanation as to why travel costs were incurred that exceeded the Entity's budget.<sup>48</sup>

v. Anticipated Travel for the Upcoming Reporting Period: Report any travel Members and/or staff are anticipating in the upcoming reporting period. Future travel reports must include the following:

a. Which Member(s) and/or staff will to travel;  
b. Where the Member(s) and/or staff will to travel to and the anticipated travel dates;

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

d. The cost of the travel and how the cost of the travel will be covered by the Entity; and

e. Whether the cost of travel is within their budget and, if not, an explanation as to why the Entity anticipates incurring travel costs that exceeds its budget.<sup>49</sup>

vi. Goals and Accomplishments: Provide the Entity's annual goals established in its annual report pursuant to section<sup>50</sup> and how the Entity has worked towards achieving such goals during the reporting period.

vii. Meetings: Indicate when and how often the Entity is meeting and whether any emergency and/or 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

<sup>48</sup> **Lisa Summers:** *written* - Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel for appointed entities could be approved by the Business Committee. An alternate comment is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

<sup>49</sup> **Lisa Summers:** *written* - Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel should be approved by the Business Committee. Another suggestion is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

<sup>50</sup> **Lisa Summers:** *written* - Section reference needs to be added.



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meeting and topic of the meeting.

viii. 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: Entities 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:

i. Names: Provide the name and purpose of the Entity, a list of the Members and their titles and the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.

ii. Meetings: Provide when meetings held, where they are held, at what time they are held and whether they are open or closed.

iii. Stipends: Provide the amount of the stipend that is paid per meeting.

iv. Budget: Provide the Entity'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 Entity's original budget, an explanation for why the budget was exceeded.

v. Goals and Accomplishments: Provide up to three (3) accomplishments the Entity achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Entity will pursue in the new fiscal year.

vi. Logo and Images: Provide the Entity's logo that may be included in the report and any other pictures or images that the Entity would like to be considered by Secretary for inclusion in the report.

vii. Department Reporting: Entities with oversight of a Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

a. Names: Provide the name and purpose of the Department as well as the contact person for the Department and their contact information including phone number, mailing address, email address, and the Department's website.

b. Budget: Provide the total budget for the previous fiscal year and the funding sources including Tribal contribution, grants, and other sources. Also provide what the actual budget expensed was at the close of the fiscal year, and, if not within the Department's original

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budget, an explanation for why the budget was exceeded.

- c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.
- d. Service Base: Provide a brief description of who the Department serves as its service base.
- e. Goals and Accomplishments: Provide up to three (3) accomplishments the Department achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Department will pursue in the new fiscal year.
- f. Logo and Images: Provide the Department's logo that may be included in the report and any other pictures or images that the Department would like to be considered by Secretary for inclusion in the report.

C. Semi-Annual Reporting: Entities 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:

- i. Names: Provide the name of the Entity and, if there have been any changes since the annual report, provide an update of the following information:
  - a. the purpose of the Entity;
  - b. a list of the Entity's Members and their titles;
  - c. the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.
- ii. Meetings: If there have been any changes since the annual report, provide an update of when meetings held, where they are held, at what time they are held and whether they are open or closed.
- iii. 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.
- iv. Goals and Accomplishments: Provide on update on the three (3) strategic goals the Entity named in its annual report.
- v. Logo and Images: Provide any pictures or images that the Entity would like to be considered by Secretary for inclusion in the report and, if the Entity's logo has changed since the annual report, provide the new logo that may be included in the report.
- vi. Department Reporting: Entities with oversight of a

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Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

- a. Names: Provide the name of the Department and, if there have been any changes since the annual report, provide an update of the Department's purpose and/or the contact person for the Department and their contact information including phone number, mailing address, email address, and the Department's website.
- b. Budget: Provide the total budget for the current fiscal year and the funding sources including Tribal Contribution, grants, and other sources.
- c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.
- d. Logo and Images: Provide any pictures or images that the Department would like to be considered by Secretary for inclusion in the report and, if the Department's logo has changed since the annual report, provide the new logo that may be included in the report.
- e. "Article V. Amendments" is to consist of:
  1. Amendments to By-laws. Explain how amendments to the by-laws may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy and must be approved by the Oneida Business Committee prior to implementation.

## **Article IX. Minutes**

9-1. All minutes must be submitted to the Secretary within a reasonable time after approval by the Entity.

9-2. Actions taken by an Entity are valid when minutes are approved, provided that, minutes are filed in accordance with this Article and the Entity's approved by-laws.

9-3. No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an Entity unless specifically required by the by-laws of that Entity.

9-4. In the event of dissolution of an Entity, all files and documents are required to be forwarded to the Secretary for proper storage and disposal.<sup>51</sup>

## **Article X. Dissolution of Entities**

10-1. Entities of the Tribe may be dissolved according to this Article; however, additional specific directions may be included in an Entity's by-laws.

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<sup>51</sup> **Lisa Summers:** *written* - This disposal should reference and be in accordance with the Open Records and Open Meetings law.



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10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.<sup>52</sup>

10-3. All other Entities may only be dissolved by motion of the Oneida General Tribal Council or the Oneida Business Committee, provided that an Entity created by the General Tribal Council may only be dissolved by a motion of the Oneida General Tribal Council. Unless otherwise indicated, the materials generated by these Entities must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.<sup>53</sup>

10-4. All chairpersons and secretaries of dissolved Entities shall close out open business of the Entities and forward materials to the Secretary.

#### **Article XI. Stipends, Reimbursement and Compensation for Service**

11-1. Compensation and reimbursement for expenses must be as set out in this Article and according to procedures for payment as set out by the Tribe.<sup>54</sup>

11-2. The Tribe recognizes that persons serving on Entities of the Tribe incur some expense. Therefore, the Tribe, in order to attract persons to serve on Entities, shall pay Stipends to these Members in accordance with this Article.

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined by the Entity, or declined by a Member(s), appointed Members serving on appointed Entities are to be paid a Stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that Entity.<sup>55</sup> Such meeting must last for at least one (1) hour and Members collecting Stipends must be present for at least one (1) hour of the meeting.

a. Members serving on the Oneida Child Protective Board are exempt from the \$50 Stipend per month limitation and are to receive a \$50 Stipend for each meeting held in accordance with 11-3.<sup>56</sup>

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined by the Entity, or declined by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting.<sup>57</sup> Members collecting Stipends shall be present for at least one (1) hour of the meeting, regardless of the length of the meeting.

52 **Lisa Summers: written** - In accordance with the Open Records and Open Meetings law.

53 **Lisa Summers: written** - In accordance with the Open Records and Open Meetings law.

54 **Lisa Summers: written** - Add sub-section or define compensation so that compensation may be in the form of a cash equivalent.

55 **Lisa Summers: written** - This implies the Entity (a majority vote?) can decline the stipend, but what occurs to a Member who doesn't agree with the decision of the Entity?

56 **Lisa Summers: written** - There should be consideration for limiting this exception to 3 or 4 meetings a month. This language looks open-ended. Another option for consideration is to delete this exception.

57 **Lisa Summers: written** - This implies the Entity (a majority vote?) can decline the stipend, but what occurs to a Member who doesn't agree with the decision of the Entity?



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11-5. The Oneida Business Committee shall periodically review the amounts provided for meeting Stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this Policy.

11-6. If an Entity, other than the Oneida Gaming Commission, fails to comply with the requirements of this Policy, the Oneida Business Committee may suspend the Entity's Members' Stipends with payment of Stipends resuming moving forward once the Entity has demonstrated to the satisfaction of the Oneida Business Committee that it has attained compliance herewith.

a. If the Oneida Gaming Commission fails to comply with the requirements of this Policy in regards to requirements that are not matters governed by the Oneida Nation Gaming Ordinance, the Oneida Business Committee may impose a fine on any/all Member(s) found to be in noncompliance with this Policy. The fine must be an amount of no less than \$50 but not more than \$100. In addition, either in lieu of the fine or in addition to the fine, the Oneida Business Committee may suspend all employment benefits that are not essential to the Member's employment requirements as a condition of gaming licensing, for example, non-essential travel.

11-7. *Conferences.* A Member of any Entity must be reimbursed in accordance with the Oneida Travel and Expense Policy for travel and per diem to offset the Member's costs for attending a Conference, provided that:

a. A Member is eligible for a \$100 Stipend for each full day the Member is present at the Conference, when attendance at the Conference is required by law, by-law or resolution.<sup>58</sup>

b. A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.<sup>59</sup>

c. No Stipend payments may be made for those days spent traveling to and from the Conference.

11-8. All Members of Entities are eligible for reimbursement for normal business expenses naturally related to membership in the Entity.

11-9. Task Force and Ad Hoc Committee Members and Members of subcommittees are not eligible for Stipends unless a specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

## **Article XII. Confidential Information**

12-1. The Tribe is involved in numerous business ventures and governmental functions where

<sup>58</sup> **Lisa Summers:** *written* - If an Member received a \$50 stipend, regardless of the length of the meeting, then this be the same. Or, I would prefer we pay them travel expenses only and no stipend.

<sup>59</sup> **Election Board:** *written* - As currently written, the Comprehensive Policy does not allow for compensation to Board, Committee, and Commission members attending meetings on behalf of the Board (i.e. OBC meetings, budget meetings, judiciary hearings). This is something that should be approved and addressed in the Comprehensive Policy Governing Boards, Committees and Commissions and should follow the same stipulations as meeting requirements, i.e., must be in attendance for at least one hour (11.3). It is suggested that the Board, Committee, or Commission member must have documentation/proof of attendance i.e., sign-in sheet, agenda, etc. to process stipend upon formal approval of payment from the Board, Committee and Commission.



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it is necessary that private information be kept in the strictest confidence to assure the continued success and welfare of the Tribe. It is in the best interest of the Tribe that all Members maintain all information in a confidential manner, whether of historical, immediate, or future use or need. The Tribe desires that all Members who have access to the Tribe's confidential information be subject to specific limitations in order to protect the interest of the Tribe. It is the intention of the Tribe that no persons engaged by the Tribe, nor their relatives or associates, benefit from the use of confidential information.

12-2. Confidential information means all information or data, whether printed, written, or oral, concerning business or customers of the Tribe, disclosed to, acquired by, or generated by Members in confidence at any time during their elected or appointed term or during their employment.

12-3. Confidential information must be considered and kept as the private and privileged records of the Tribe and may not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

12-4. A Member will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Tribe is entitled to seek an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the Member's relationship with the Tribe and the Entity.

12-5. Members shall surrender to the Tribe, in good condition, all records kept by the Member pertaining to Entity membership upon completion of their term of membership, for any cause whatsoever.

12-6. No Member may disclose confidential information acquired by reason of his/her relationship or status with the Tribe for his/her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

### **Article XIII. Conflicts of Interest**

#### *Subpart A. General.*

13-1. The Tribe recognizes the ability of all persons to serve on an Entity. However, it is also recognized that the delegated authority and responsibilities of an Entity may cause conflict with membership on other Entities or employment.

13-2. The Tribe shall request all candidates to disclose possible conflicts of interest prior to election or appointment in order to allow any potential conflicts to be resolved in a timely manner.

13-3. Members shall disclose and resolve conflicts of interest in a reasonable and timely manner. Failure to resolve conflicts may result in removal from office from an elected Entity and may result in termination from an appointed Entity. All applicants shall submit, with the Application forms, a signed conflict of interest declaration disclosing all known conflicts.

13-4. This Article sets forth specifically prohibited conflicts of interests. However, for any individual candidate or Member of an Entity, additional conflicts may arise within the by-laws of that Entity or employment relationships.

13-5. No Member may act as a consultant, agent, representative for, or hold any position as an



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officer, director, partner, trustee, or belong as a Member in a board, committee or commission, or the like without first disclosing such activity to determine possible conflicts of interest.

*Subpart B. Employment Interests.*

13-6. No Member may hold office in an Entity which has authority over the area in which the Member is employed by the Tribe or elsewhere<sup>60</sup>. The Tribe recognizes the ability of all persons to serve on Entities of the Tribe, but also recognizes the conflict arising out of membership on an Entity and employment in an area over which the Entity has authority.

13-7. Employment is defined for this subpart as that area which the employee supervises or is supervised in regards to a specific subject matter.

13-8. Authority of an Entity is defined for this subpart as that area over which the Entity has subject matter jurisdiction delegated either by the Oneida Business Committee or the Oneida General Tribal Council, and for which such authority may be regulatory, oversight, or otherwise.

*Subpart C. Financial Interests, Investments, and Gifts.*

13-9. No Member, or their Immediate Family, may have a financial interest in any transaction between the Entity and an outside party.

a. For the purposes of this Policy, financial interest means any profit sharing arrangements, rebates, payments, commissions, or compensation, in any form, and includes any form of ownership, regardless of ability to control the activities of the business, provided that, this does not include ownership of shares which, other than in combination others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.

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<sup>60</sup> Lisa Summers: written - What does "or elsewhere" mean, any department?

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13-10. As referred to in this Subpart C, for the purposes of defining conflicts, Entity includes the programs or enterprises over which the Entity has delegated authority.

13-11. Members shall avoid personal investment in any business with which the Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, an investment by a Member in a business with which the Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:

a. the investment cannot be considered to have been made on the basis of confidential information; and

b. the investment cannot be expected to adversely affect or influence the Member's judgment in the performance of any services or obligations on behalf of the Tribe.

13-12. Members may not use their relationship with the Tribe to exercise undue influence to obtain anything which is not freely available to all prospective purchasers.

13-13. Members may not accept gifts, payments for personal gain, opportunities to invest, opportunities to act as an agent, a consultant, or a representative for actual or potential purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct or indirect benefit from any actual or potential purchaser, sales source, contractor, consultant, customer, or supplier.

13-14. Members may not accept any gift, entertainment, service, loan, promise of future benefits or payment of any kind which the Oneida Business Committee, or other delegated authority, determines may adversely affect or influence the Members' judgment in the performance of any services, duties, obligations or responsibilities to the Tribe, or may impair confidence in the Tribe and the Tribe's Entities.

13-15. Notwithstanding the foregoing, Members may accept or provide business-related meals, entertainment, gifts or favors when the value involved is insignificant and the Oneida Business Committee or other delegated authority has determined that it clearly will not place him or her under any obligation.

*Subpart D. Competition with the Tribe.*

13-16. Members shall not enter into competition with the Tribe regarding the purchase or sale of any property, property rights or property interests, without prior consent of the Tribe.

13-17. A Member may enter into competition with the Tribe when the activity engaged in is approved through an Oneida entrepreneur development program or other similar Oneida program and does not otherwise violate this Policy.

*Subpart E. Use of the Tribe's Assets.*

13-18. All bank accounts for the Tribe's funds must be maintained in the name of the Tribe and will be reflected on the Tribe's books in accordance with the Generally Accepted Accounting Principles.

13-19. Each Member shall comply with the system of internal accounting controls sufficient to provide assurances that:

a. all transactions are executed in accordance with management's authorization; and

b. access to assets is permitted only in accordance with management's authorization; and

c. all transactions are recorded to permit preparation of financial statements in conformity with the Generally Accepted Accounting Principles or other applicable



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criteria.

13-20. Any records created or obtained as a Member of an Entity are the property of the Tribe and can only be removed or destroyed if approved by the Entity via a majority vote of a quorum of the Entity at a duly called meeting. All removal or destruction of documents must be conducted in accordance with the Open Records and Open Meetings Law.

*Subpart F. Disclosure.*

13-21. Each Member shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Tribe by completely filling out the Application for membership or informing the Oneida Business Committee or other designated authority after election or appointment of a conflict arising during membership on an Entity.

*Subpart G. Reporting.*

13-22. All conflicts or potential conflicts that arise during membership on an Entity must be immediately reported to the Secretary. Upon receiving information of a potential conflict of interest, the Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Tribe regarding the status of the Member.

13-23. Any evidence of noncompliance with any Policy regarding the use of the Tribe's assets must be immediately reported to the internal audit staff. If the internal audit staff finds evidence of noncompliance, they shall notify the Oneida Law Office. The Oneida Business Committee and/or the Oneida Law Office shall then make a determination of further action to be taken, if any.

*Subpart H. Enforcement and Penalties.*

13-24. Members found to be in violation of this Policy may be removed pursuant to the Removal Law, if a Member of an elected Entity, or have their appointment terminated, if a Member of an appointed Entity.

a. A Member who has been terminated or removed is ineligible for Appointment or election to any Entity for at least one (1) year from the effective date of the termination or removal.

13-25. Candidates for appointment or election to an office found to be in violation of this Policy may be disqualified from taking office.

*End.*

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Adopted - BC-8-2-95-A

Amended - BC-5-14-97-F

Emergency Amendments - BC-03-06-01-A (expired)

Emergency Amendments - BC-04-12-06-JJ

Emergency Amendments - BC-11-12-09-C

Emergency Amendments Extension - BC-05-12-10-I (expired)

Amended - BC-9-27-06-E (permanent adoption of emergency amendments)

Amended - BC-09-22-10-C

Amended -



**Legislative Reference Office**

P.O. Box 365  
Oneida, WI 54155  
(920) 869-4375  
(800) 236-2214

**Committee Members**

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

## LEGISLATIVE OPERATING COMMITTEE

Public Meeting on the Comprehensive Policy Governing Boards Committees and Commissions  
Amendments, the Administrative Rulemaking Law, and the Administrative Procedures Act Amendments  
Business Committee Conference Room-2<sup>nd</sup> Floor  
Norbert Hill Center  
January 7, 2016 12:15 p.m.

**PRESENT:** Brandon Stevens, Jennifer Webster, Rae Skenandore, Matt Denny, Rhiannon Metoxen, Maureen Perkins, Tani Thurner, Douglass McIntyre and Krystal John.

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### Comprehensive Policy Governing Boards, Committees and Commissions Amendments

**Brandon Stevens:** We will start with the Comprehensive Policy, I am guessing that is what Matt is here for, Comprehensive Policy. If there are not any comments or questions, we can move on to the next one. Are you guys okay? You guys have any questions or any concerns?

**Matt Denny:** For Boards, Committees and Commissions role in terminating appointed positions, my question would be, for the elected positions, specifically the Gaming Commission, we just had an incident that happened with an elected official, and here you allow something for the appointed position to be terminated, can the elected positions be terminated as well?

**Brandon Stevens:** I think so, yea, where we're going in the direction is having the misconduct kind of written out to say that these are some of the things that are not discretionary. So let's say you become ineligible based on the requirements of having the position, those are easier to say there is no discretion involved and that can follow a process. So, yea, that's the direction we are going in.

**Matt Denny:** I'm just saying this says just for appointed, does it also include the elected? I am looking at line 40 on page 2. Is this going to cover elected officials then?

**Krystal John:** Elected officials are subject to the Removal Law.

**Matt Denny:** So this doesn't cover elected officials then?

**Krystal John:** It covers elected officials.

**Brandon Stevens:** But the removal, you are talking more so the removal part of that. Let's say elected official...

**Matt Denny:** You're allowing an appointed person to be terminated from a Board, Committee or Commission...

**Krystal John:** I'm sorry, I am nervous I am not picking up his comments for transcription, if you want to sit here please.

**Matt Denny:** On page 2 there, of what I just read, on line number 40, it talks about an appointed entity seeking termination, but the Gaming Commission is not an appointed entity, it is an elected entity, does something in this document cover that elected official ... from not being eligible...

**Krystal John:** Being removed?

**Matt Denny:** No, not necessarily removed. Here you are talking about if you fail to meet and retain the requisite qualifications per the entity's bylaws, that has to deal with an appointed entity, but I am asking does this also cover, the appointed or the elected entities?

**Brandon Stevens:** So it would not, so you're asking, or your suggestion is that there should be a provision that that would allow the termination or removal of an elected official based on the requirements not being adhered to at any given time in their their or their election or...

**Matt Denny:** Yea I think it should be considered anyway, I don't know the elected law by heart or anything.

**Brandon Stevens:** Okay.

**Matt Denny:** When an elected official becomes ineligible, and the Gaming Commission has specific eligibility requirements, there is nothing, besides the Removal Law, that addressed what can happen.

**Brandon Stevens:** Yea.

**Matt Denny:** But in this document you have it for the appointed positions and I just want to know, can it be in there for an elected position, maybe make it specific to the Gaming Commission only, not to put the BC in the same position, because we are kind of similar. But, I would like to see something to cover the Gaming Commission I guess is what I'm saying.

**Brandon Stevens:** Okay, yes, we will take that as a comment and we will look to see how we can process that because I understand.

**Matt Denny:** Yea because it just says appointed here, and I don't want it to be just, because it doesn't fall underneath us, I want something for us.

**Brandon Stevens:** Yea, it's the same thing with the Business Committee, so if we have to be required to live within the boundaries or Outagamie or Brown County. So say if I move to Florida, what happens if I say, "No, I'm not going to resign"?

**Matt Denny:** And that's the only question I had was that.

**Brandon Stevens:** Okay.

**Matt Denny:** It's for appointment and nothing and for elected, I know there is a difference, but I just wanted to see if that could be covered.

**Brandon Stevens:** Okay, alright, thank you. So if there is no other comments on that, we will move to the Administrative Rulemaking.

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**Krystal John**

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**From:** Racquel L. Hill  
**Sent:** Wednesday, January 13, 2016 2:50 PM  
**To:** Krystal John  
**Cc:** Melinda K. Danforth  
**Subject:** Written Comments for Comprehensive Policy Governing Boards, Committees, and Commissions  
**Attachments:** 2016 01 05 LOCpublicmtgwrittencomments.pdf

The Election Board took formal action at a special meeting of January 6, 2016 to approve the attached comments. Please accept them on behalf of the Election Board as a whole. Any questions or concerns let me know.

Racquel Hill, Chairperson  
Election Board

# Oneida Tribe of Indians of Wisconsin



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



## ONEIDA TRIBAL ELECTION BOARD

P.O. BOX 413  
ONEIDA, WI 54155



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

## MEMORANDUM

**TO:** Legislative Operating Committee (LOC)

**FROM:** Racquel Hill, Election Board Chair

**DATE:** January 5, 2016

**SUBJ:** Comprehensive Policy Public Meeting Written Comments

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On behalf of the Election Board, please accept this as written comments to the public meeting held pertaining to the Comprehensive Policy Governing Boards, Committees, and Commissions held on January 7, 2016.

As currently written, the Comprehensive Policy does not allow for compensation to Board, Committee, and Commission members attending meetings on behalf of the Board (i.e. OBC meetings, budget meetings, judiciary hearings). This is something that should be approved and addressed in the Comprehensive Policy Governing Boards, Committees, and Commissions and should follow the same stipulations as meeting requirements, i.e., must be in attendance for at least one (1) hour (11.3). It is suggested that the Board, Committee, or Commission member must have documentation/proof of attendance i.e., sign-in sheet, agenda, etc. to process stipend upon formal approval of payment by the Board, Committee, and Commission.

In addition if the LOC authorizes such compensation, this should be included in the Election Board Bylaws before sending them for approval to the Business Committee.

Thank you for your time and consideration.

## Krystal John

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**From:** Lisa A. Liggins  
**Sent:** Thursday, January 14, 2016 2:28 PM  
**To:** LOC  
**Cc:** Krystal John; Lisa M. Summers  
**Subject:** Written comments regarding Comprehensive Policy Governing BCC's - Lisa Summers  
**Attachments:** 2016 01 14 LSummers written comments RE Comprehensive Policy Governing Boards Draft 5.docx

Attached you will find the written comments from Lisa Summers, Tribal Secretary. Please confirm receipt. Thank you.

FOUR STRATEGIC DIRECTIONS



Lisa Liggins

Assistant to:  
OBC Secretary Lisa Summers

920-869-4434  
[lliggins@oneidanation.org](mailto:lliggins@oneidanation.org)



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## Comprehensive Policy Governing Boards, Committees and Commissions

Yolihwakwe'kú Kayanl'hsia? yethiya'tanú'nha tsi? ka'yá lonatlihu'tú

all of the matters – laws and policies – they're watching over them – the ones that have been appointed

Article I. Purpose and Policy  
Article II. Adoption, Amendment, Repeal  
Article III. Definitions  
Article IV. Applications  
Article V. Vacancies  
Article VI. Appointed Entities  
Article VII. Elected Entities  
Article VIII. By-laws of Boards, Committees and Commissions

Article IX. Minutes  
Article X. Dissolution of Entities  
Article XI. Stipends, Reimbursement and Compensation for Service  
Article XII. Confidential Information  
Article XIII. Conflicts of Interest

### Article I. Purpose and Policy

1-1. It is the purpose of this Policy to govern the standard procedures regarding the appointment and election of persons to boards, committees and commissions, creation of by-laws, maintenance of official records, compensation, and other items related to boards, committees and commissions. This Policy does not apply to the Tribe's corporations due to the corporate structure and autonomy of those Entities.

1-2. It is the Tribe's policy to have consistent and standard procedures for choosing and appointing the most qualified persons to boards, committees and commissions, for creation of by-laws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

**Comment [LMS1]:** I agree with the clarification that this policy applies to both appointed and elected boards, committees, and commissions

### Article II. Adoption, Amendment, Repeal

2-1. This Policy was adopted by the Oneida Business Committee by resolution # BC-8-2-95-A and amended by resolutions # BC-5-14-97-F, # BC-09-27-06-E, # BC-09-22-10-C and # BC-

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

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

2-4. In the event of a conflict between a provision of this Policy and a provision of another law or policy, this Policy controls, provided that the requirements of the Oneida Nation Gaming Ordinance supersede the provisions of this Policy in regards to the Oneida Gaming Commission.

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

**Comment [LMS2]:** With the deletion of 2-4. of the current law, how will this policy address the stipend inconsistencies?

2-4.

### Article III. Definitions

3-1. This Article governs the definitions of words and phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

- a. "Application" means the form by which a person seeks to be appointed to a Vacancy or considered as a candidate for an election.

**Comment [LMS3]:** Insert "fill"

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- b. "Appointment" means the process by which a person is chosen to fill a Vacancy.
- c. "Chairperson" means the current elected Chairperson of the Tribe or his or her designee.
- d. "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the Entity.
- e. "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose Members are appointed by the Oneida Business Committee or elected by the Tribe's membership.
- f. "Immediate Family" means the husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law.
- g. "Member" means any person appointed or elected to membership on an Entity.
- h. "Stipend" means that amount paid by the Tribe to persons serving on boards, committees and commissions of the Tribe to offset the expenses of being a member on the board, committee or commission.
- i. "Task Force or Ad Hoc Committee" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.
- j. "Transaction" means any activity wherein a provider of goods and/or services is compensated in any form.
- k. "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- l. "Secretary" means the current elected Secretary of the Tribe or his or her designee.
- p. "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, creation of a new position or end of an designated interim term.

**Comment [LMS4]:** I suggest adding the definition of "Training" instead of expanding the conference definition. Trainings may be mandatory and should be considered separately from seminars, meetings, etc.

**Comment [LMS5]:** I agree with deletion of "second cousin" that was included in previous draft. There should be a consistent definition of "Immediate Family" in all laws & policies.

#### Article IV. Applications

4-1. The Secretary shall generate, and the Oneida Business Committee must approve, the application form required to be used by all applicants.

4-2. Application forms must contain:

- a. questions designed to obtain the applicant's

- 1. name;
- 2. address;
- 3. phone number;
- 4. enrollment number; and
- 5. position applied for.

- b. additional questions, if necessary, to obtain information necessary to make an informed decision as to the qualifications of any individual to fill a Vacancy.

4-3. All applicants shall file their Applications with the Secretary by 4:30 p.m. of the deadline date. Postmarked envelopes are accepted as filed if postmarked by the deadline date and received by the Secretary within five (5) business days of the deadline.

4-4. The Election Board shall verify all Applications for elected positions in accordance with

**Comment [LMS6]:** "mailing address" and "physical or street address" should also be included. Applicants may provide a physical or street address at which they do not receive mail. In addition, some boards, committees, and commissions, such as the Trust/Enrollment Committee, have a residency requirement that needs to be verified.

**Comment [LMS7]:** Date of Birth should also be added. Some boards, committees, and commissions, such as ONCOA, have an age requirement that needs to be verified. In addition, if an applicant provides the incorrect enrollment number, the date of birth may be utilized to verify enrollment with the Enrollment Department.

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the Oneida Election Law to ensure the eligibility and qualification requirements are met. The Secretary shall verify all Applications for appointed positions as needed or as required by the Entity's by-laws to ensure the eligibility and qualification requirements are met.

4-5. At the completion of the posted deadline for filing Applications, the Election Board shall provide notice to all persons who have filed an Application for an elected position and the Secretary shall provide notice to all persons who have filed an Application for an appointed position.

a. Such notice must be formatted the same for all applicants and must minimally include the following:

1. the date the applicant's Application was filed;
2. whether the applicant meets the eligibility requirements as determined by the Entity's by-laws and will be considered for the election/appointment;
3. a note that further information can be requested by contacting the party sending the notice and providing such contact information;
4. the applicable duties should the applicant be selected; and
5. if eligible for election/appointment:

"The Oneida Tribe reports all income paid by the Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

4-6. In the event that there are insufficient applicants after the deadline date has passed for appointed positions, the Chairperson shall elect to either:

- a. Allow late Applications to be included within the applicant pool, or
- b. Repost the Vacancy for an additional time period. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

## Article V. Vacancies

5-1. This Article governs when Vacancies occur, and where and when notice of the Vacancies must be posted.

5-2. The following Vacancies are effective as listed herein:

- a. End of Term. A Vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends according to the Entity's by-laws.
- b. Removal. Removal is effective as identified in the Removal Law.
- c. Resignation. A resignation is effective upon:
  1. Deliverance of a resignation letter to the Entity; or
  2. The Entity's acceptance by motion of a verbal resignation.
- d. Termination of Appointment. A termination is effective upon a two-thirds (2/3) majority vote of the entire Oneida Business Committee in favor of a Member's termination of appointment.
- e. New Positions. Vacancies on new Entities and for new positions on existing Entities

**Comment [LMS8]:** This same statement should be included for the Election Board as well, to ensure they are working from the by-laws and from no other source of information, such as the website, which may have errors.

**Comment [LMS9]:** Does this include the extra five (5) days for postmarked applications referenced in section 4-3.? I think this needs to clear.

**Comment [LMS10]:** The tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence "You will receive the applicable IRS tax form..."

**Comment [LMS11]:** Because this is discretionary, I believe it should be the entire Business Committee's responsibility to make the decision. There is no point in requiring the Secretary to enforce a deadline if that enforcement can be undone; this discretion could cause unnecessary conflict. The other option to address my concern would be to disallow late applications.

Lastly, at this point, how is the Chair in possession of the applications in order to make this determination? There is not indication the Chair's office is notified of insufficient applicants. Another option would be for the Secretary, who is possession of the applications in the previous section to place this on the next Business Committee meeting for consideration to allow late applications or repost.

**Comment [LMS12]:** If the Chair elects to repost the vacancy, how will this posting occur? Will the request go to the Business Committee for acceptance? How will the reposting happen? I don't believe it is clear.



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are effective upon adoption/amendment of by-laws.

f. Interim Positions. Vacancies of interim positions are effective upon creation by the Oneida Business Committee or General Tribal Council.

5-3. Entities shall notify the Secretary as soon as any position(s) becomes vacant so that the Secretary may post the notice of Vacancy in order to fill the Vacancy in accordance with the requirements of this Article.

5-4. Except as expressly stated otherwise, the Secretary shall request permission from the Oneida Business Committee prior to posting notice of a Vacancy as set out in this Article and shall post notices of Vacancy within a reasonable time of the Oneida Business Committee's grant of permission, in accordance with the following:

a. End of Term. The Secretary may request permission to post notice of Vacancies for positions becoming vacant due to term completions on an annual basis; the notice of Vacancy for each term completion must be posted thirty (30) days in advance of each term completion.

b. Removal. Permission to post notice of Vacancies based on removal must be requested no later than the first Oneida Business Committee meeting following the effective date of the removal.

c. Resignation. Permission to post notice of Vacancies based on resignation must be requested no later than the first Oneida Business Committee meeting following the Secretary's receipt of notice of an effective resignation from the Entity.

d. New Positions. If the Oneida Business Committee or General Council does not specify a date for posting new positions when creating an Entity, the Secretary shall request permission to post Vacancies for new positions no later than the first Oneida Business Committee following the later of either the creation of the Entity or the adoption of the Entity's by-laws.

e. Interim Members. Permission to post notice of Vacancies of interim Members must be requested no later than the first Oneida Business Committee meeting following the completion of the term the interim Member was designated to hold.

f. Termination of Appointment. Permission to post notice of Vacancies based on termination of Appointment must be requested no later than the first Oneida Business Committee meeting following the effective date of the termination.

5-5. After receiving permission from the Oneida Business Committee, the Secretary shall post notice of Vacancies in each of the following locations:

a. on the Tribe's website;

b. in the Kalihwisaks; and

c. any reasonable location requested by the Entity.

5-6 In the event that there is an administrative/clerical error in the Secretary's posted notice of Vacancy, the Secretary may correct such error by reposting the notice of Vacancy as soon as practicable after noticing such error. Under these limited circumstances, the Secretary does not require permission from the Oneida Business Committee to repost notice of the Vacancy. In the event of reposting, prior applicants will be considered to have filed Applications within the deadline period.

**Comment [LMS13]:** A requirement that notice be provided to the Business Committee no later than the next meeting should be included.

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## Article VI. Appointed Entities

6-1. All appointments must be made by the Oneida Business Committee at regular or special Oneida Business Committee meetings, provided that, no applicant may be appointed who fails to meet the requirements set out in the Entity's by-laws.

- a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

6-2. The following procedures must be used to determine which applicant is appointed:

- a. Within five (5) business days after the application deadline and notice has been provided pursuant to Article 4-5, the Secretary shall deliver to the Chairperson all eligible Applications, as verified by the Secretary, along with a summary of qualifications to hold office.

- b. When selecting an applicant(s) for appointment, the Chairperson may consider the Entity's recommendations, if such recommendations are provided. Within a reasonable time, the Chairperson shall either:

1. choose an applicant(s) for appointment, or
2. ask the Secretary to repost the notice of Vacancy because of an ineligible, unqualified, or under qualified applicant pool.

- c. Once the Chairperson has made a selection, he or she shall forward the list of qualified applicants along with his or her selected applicant(s) to all Oneida Business Committee members. Based on the information provided, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting, either accept or reject the Chairperson's selected applicant(s).

1. If the Chairperson's applicant(s) are rejected by the Oneida Business Committee, the Oneida Business Committee shall, by a majority vote of a quorum at any regular or special Oneida Business Committee meeting:

- A. Approve another applicant from the list of qualified applicants; or
- B. Direct the Chairperson to prepare another recommendation; or
- C. Direct the Vacancy to be re-posted.

6-3. All appointments are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest upon taking the oath. The Secretary shall notify the chosen persons when they should appear for taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary.

1. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people

**Comment [LMS14]:** I believe appoints should be made at the by end of the first quarter of each BC term. All appointed terms would be every 3 years and truly serve at that BC's discretion. If this were approved, the other comments made may not apply. I can provide a transition plan for this to become effective with the next BC.

**Comment [LMS15]:** Do interim appointments need to meet all of the requirements as well? This question has come up in the past.

**Comment [LMS16]:** I understand the intent of this section, but it may need to be moved to a different section of Policy and not under "Appointed Entities".

**Comment [LMS17]:** I don't think this timeline fits section 4-3, which allows applications that are postmarked by the deadline, and received within five (5) business days to be considered. Time is needed for the Secretary to verify eligibility in accordance with section 4.4.

**Comment [LMS18]:** Due to the inclusion of a designee in the definition of Chairperson, I suggest adding a timeframe e.g. "within 30 days" or something to that effect.

**Comment [LMS19]:** As with 4-6.b., if the Chair elects to repost the vacancy, how will this posting occur? Does the request go to the Business Committee for acceptance?

**Comment [LMS20]:** Delete this line, if comment #21 regarding the reordering of sections 6-3, and 6-4, is accepted.

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with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the (Entity name), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.

e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

6-4. The Chairperson shall forward a list of all applicants to the Secretary and the final decision regarding the selection after the procedures in Article 6-2 are completed. The Secretary shall then notify all applicants of the final status of their Application. Notices to those selected for appointment must include the following:

"The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an IRS Form 1099 which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

6-5. *Termination of Appointment.* Appointed Members of Entities serve at the discretion of the Oneida Business Committee. Upon the recommendation of the Chairperson, a Member of an appointed Entity may have his or her appointment terminated by the Oneida Business Committee by a two-thirds (2/3) majority vote of the entire Oneida Business Committee.

a. An Appointed Entity may bring a request for termination of a Member to the Oneida Business Committee by asserting that there is cause for termination based on one (1) or more of the following:

1. Failure to meet and maintain the requisite qualifications as identified in the Entity's bylaws.
2. Breach of confidentiality.
3. Accumulation of three (3) or more unexcused absences from required meetings or other Entity responsibilities in the Member's term, where an absence is unexcused if the appointed Member fails to provide twenty-four (24) hours of notice of an anticipated absence.
4. Accumulation of four (4) or more consecutive absences from required meetings or other Entity responsibilities in the Member's term, whether excused or unexcused.
5. Any other cause for termination established in the Entity's by-laws.
6. Violations of Tribal law.
7. Conducting him or herself in a manner that is detrimental to the Entity's reputation or that inhibits the Entity's ability to fulfill its responsibilities.

b. The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

**Comment [LMS21]:** This section should be moved between 6-2. and 6-4. Include requirement to notify the chosen persons when they should appear for taking the oath.

**Comment [LMS22]:** As with section 4-5.a.5., the tax form is 1099-MISC. If this form changes, this law would need to be updated. Suggest the following change to this sentence "You will receive the applicable IRS tax form..."



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## Article VII. Elected Entities

7-1. To serve on an elected Entity, a person must either be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement in accordance with the Oneida Election Law, except as otherwise provided herein.

a. Notwithstanding the initial determination of membership to an Entity, the Member's status as appointed or elected is based entirely on the Entity's classification as an appointed or elected Entity pursuant to the Entity's by-laws.

7-2. All other processes must be as directed in the Oneida Election Law. In addition to these processes, all applicants must be notified of the final results of the election. Notices to those elected must include the following:

"The Oneida Tribe reports all income paid by the Oneida Tribe in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."

7-3. All elected positions are official upon taking an oath at a regular or special Oneida Business Committee meeting and all rights and delegated authorities of membership in the Entity vest upon taking the oath.

- a. The Secretary shall maintain originals of the signed oath.
- b. The Secretary shall forward copies of the oath to the new Member and the Entity.
- c. Wording of oaths must be approved by the Oneida Business Committee and kept on file by the Secretary. The following oath is the standard oath to be used unless a specific oath for the Entity is pre-approved by the Oneida Business Committee:

I, (name), do hereby promise to uphold the laws and regulations of the Oneida Tribe, the General Tribal Council, and the Tribe's Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and with the strictest confidentiality.

I will carry out the duties and responsibilities as a member of the (entity name), and shall make all recommendations in the best interest of the Oneida Tribe as a whole.

- d. Revisions of oaths must be approved by the Oneida Business Committee prior to usage.

- e. All oaths must be sufficient to make the appointee aware of his or her duty to the Tribe as a Member of the Entity.

**Comment [LMS23]:** I understand this is the same as section 6-1.a., but it doesn't seem to fit here either.

**Comment [LMS24]:** This section appears to state the Secretary will notify all candidates of the official election results? If so, there needs to be consideration for the Secretary to maintain the applicant record or application for elected positions as currently in most situations this does not occur.

**Comment [LMS25]:** Include requirement to notify those elected when they should appear for taking the oath.

**Comment [LMS26]:** This section should match sections 4-5.a.5 and 6-4.

## Article VIII. By-laws of Boards, Committees and Commissions

8-1. By-laws of all Boards, Committees and Commissions must conform to this outline. All existing Entities shall comply with this format and present by-laws for adoption within a reasonable time after creation of the Entity. By-laws must contain this minimum information, although more information is not prohibited.

8-2. Specifically excepted from this Article are Task Forces and Ad Hoc Committees. However, these Entities must have, at a minimum, mission or goal statements for completion of

**Comment [LMS27]:** They are not appointees, they are elected Members.

**Comment [LMS28]:** A six (6) month timeframe should be included in the adoption resolution as well.

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the task.

8-3. All by-laws must contain the following Articles:

- a. Article I. Authority.
- b. Article II. Officers
- c. Article III. Meetings
- d. Article IV. Reporting
- e. Article V. Amendments

8-4. Sub-articles. Articles must be divided into the sub-articles provided below.

a. "Article I. Authority" is to consist of the following information:

1. Name. State the full name of the Entity and any short name that will be officially used.
2. Authority. State the name of the creation document and provide the citation for such creation document, if any.
3. Office. Provide the official office or post box of the Entity.
4. Membership. Provide the following information:
  - A. Number of Members;
  - B. Whether the Entity is an elected or appointed body and how Members are elected or appointed;
  - C. How Vacancies are filled
  - D. The requisite qualifications for Membership.
  - E. Causes for termination or removal, if any, in addition to those contained under Article 6-5.a. hereof and the Removal Law.
5. Stipends. Provide a comprehensive list of all Stipends Members are eligible to receive and the requirements for collecting each Stipend, if any in addition to those contained in this Policy.
6. Trainings. Provide a comprehensive list of all trainings that the Entity deems necessary for Members to responsibly serve the Entity.

b. "Article II. Officers" is to consist of the following information:

1. Chair and Vice-Chair. This section creates the positions of the Entity. Other positions may also be created here.
2. Chair duties. Because of the importance of this position, specifically list the chairperson's duties and limitations.
3. Vice-Chair duties. Because of the importance of this position, specifically list the vice-chairperson's duties and limitations.
4. Additional Offices and Duties. Include additional sub-articles to specifically list duties and limitations for every office created in sub-article 1 above and specifically identify which officers have the authority to sign off on travel on behalf of the Entity.
5. How chosen. Specifically state how a Member of the Entity will be chosen to occupy an officer's position.
6. Personnel. State the Entity's authority for hiring personnel, if any, and the duties of such personnel.

c. "Article III. Meetings" is to consist of the following information:

**Comment [LMS29]:** Insert "Article V. Compensation" to differentiate full-time/part-time salaried, elected v. stipended. Article V. Amendments becomes Article VI. Amendments.

**Comment [LMS30]:** Insert sub-section for "E-mail address", noting it must be an authorized email and it is the official email of the Entity

**Comment [LMS31]:** I believe we need to limit all membership, except where provided by law, to five (5) Members. I can provide a transition plan to achieve through attrition.

**Comment [LMS32]:**  
We currently have many different versions of this section. Some elected Entities make their own appointment to fill a vacancy and it is simply accepted by the Business Committee, some are required to provide a recommendation to the Chairperson.  
This Policy provides the uniform process for appointed Entities. This Policy and the Election Law provide the uniform process for elected Entities. The process should be the same for all Entities. I believe this line should be deleted.

**Comment [LMS33]:** Same as comment #32

**Comment [LMS34]:** There should be minimum qualifications included here. For any Entity, a Member must meet some standard set by this Policy. The By-laws may exceed these minimum qualifications, but not fall lower the minimum set by the Policy.

**Comment [LMS35]:** Training plans should be approve by the GTC for elected Entities or the BC for appointed Entities.

**Comment [LMS36]:** Change to "Officers". "Offices" connotes a department or staff and is unclear.

**Comment [LMS37]:** Change to "officer". Same as comment #35

**Comment [LMS38]:** Add sub-section regarding "Sign Off Authority" and its limitation. Statement in sub-section 4. Relates to travel only, the Sign-Off needs to be designated and limited for other budget items as well, such has supplies, meeting materials, stipends, etc.

**Comment [LMS39]:** If an Entity has full Officers, e.g. the Entity has a Secretary, there is no need for personnel. There should be limitations and/or parameters for personnel included in the Policy.

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1. Regular meetings. State when and where regular meetings are to be held, and, explain how notice of the meeting, agenda, documents, and minutes will be provided. At a minimum, the Entity 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 maintaining the community calendar on the Tribe's website.

2. Emergency meetings. State how emergency meetings may be called and noticed, provided that, at a minimum, the Entity shall provide public notice of emergency meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the emergency meeting. The Entity shall include the following as part of the requirements for calling an emergency meeting.

"In order to justify holding an emergency meeting, the [insert Entity name] 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. Special meetings. State how special meetings may be called and must be noticed, provided that, at a minimum, the Entity shall provide public notice of special meetings by posting the date, time and location on the community calendar on the Tribe's Website no later than twenty-four (24) hours prior to the time of the special meeting. In addition, Entities calling special meetings shall provide notice of all special meetings to the Oneida Business Committee in advance of the meeting, if possible, but if not possible, no later than the first Oneida Business Committee meeting following the special meeting.

4. Quorum. State how many Members create a quorum.

5. Order of Business. Explain how the agenda will be set.

6. Voting. Provide voting requirements, including the requisite percentages for passing different items and when, if at all, the chairperson may vote.

d. "Article IV. Reporting" is to consist of the following information:

1. Agenda items. Agenda items must be in an identified and consistent format.

2. Minutes. Minutes must be typed and in a consistent format designed to generate the most informative record of the meetings of the Entity.

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 based on the meeting in which they were presented.

4. Reporting. Entities shall report to their Oneida Business Committee member who is their designated liaison intermittently as the Entity 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. Entities 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: Entities shall make quarterly reports to the

**Comment [LMS40]:** Notice of all meetings should be in compliance with the Open Records and Open Meetings Law. If this comment is not accepted, please consider comments #41 and #42.

**Comment [LMS41]:** "requesting the posting of" The Entity cannot "make" the Tribe's newspaper publish their information. Additionally, most Entities will not have access to the community calendar, there for they should "request the posting of" in this case as well.

**Comment [LMS42]:** "on"

**Comment [LMS43]:** Again, notice should be in compliance with the Open Records and Open Meetings law.

**Comment [LMS44]:** Again, notice should be in compliance with the Open Records and Open Meetings law.

**Comment [LMS45]:** "State how a quorum is determined." Entities have had issues with getting a quorum when a specific number is identified in this section. Those Entities may want to consider another deamination of a quorum, such as "a majority of current Members".

**Comment [LMS46]:** Although Article IX. provides direction on what Entities do with their minutes, additional direction may be needed for any other records, such as agendas and handouts. Another option is to include a reference to the Open Records and Open Meeting law.



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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:

- i. Names: Provide the name of the Entity, the Member submitting the report, and the Oneida Business Committee liaison, and a list of the Members and their titles, their term expiration dates and contact information.
- ii. 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.
- iii. Financial Reports: Include if specifically requested by the Oneida Business Committee or if required by the Entity's by-laws.
- iv. Special Events and Travel During the Reporting Period: Report any special events held during the reporting period and any travel by the Members and/or staff. Travel reports must include the following:
  - a. Which Member(s) and/or staff traveled;
  - b. Where the Member(s) and/or staff traveled to and the travel dates;
  - c. The purpose for the travel and a brief explanation of how the travel benefited the Tribe;
  - d. The cost of the travel and how the cost of the travel was covered by the Entity; and
  - e. Whether the cost of travel was within their budget and, if not, an explanation as to why travel costs were incurred that exceeded the Entity's budget.
- v. Anticipated Travel for the Upcoming Reporting Period: Report any travel Members and/or staff are anticipating in the upcoming reporting period. Future travel reports must include the following:
  - a. Which Member(s) and/or staff will to travel;
  - b. Where the Member(s) and/or staff will to travel to and the anticipated travel dates;
  - c. The purpose for the travel and a brief explanation of how the travel will benefit the Tribe;
  - d. The cost of the travel and how the cost of the travel will be covered by the Entity; and
  - e. Whether the cost of travel is within their budget and, if not, an explanation as to why the Entity anticipates

**Comment [LMS47]:** Section needs to be reworded as it appears to contradict section 9-3.

Perhaps the same section needs to included here as well.

**Comment [LMS48]:** Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel for appointed entities could be approved by the Business Committee.

An alternate comment is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

**Comment [LMS49]:** Appointed Entities serve at the discretion of the Business Committee. Travel Reports and Anticipated Travel should be approved by the Business Committee.

Another suggestion is that there be a provision which identifies travel must be link to the purpose of the entity. Also, if the travel is for required training, then a training plan needs to be on file for that entity.

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incurring travel costs that exceeds its budget.

vi. Goals and Accomplishments: Provide the Entity's annual goals established in its annual report pursuant to section [ ] and how the Entity has worked towards achieving such goals during the reporting period.

**Comment [LMS50]:** Section reference needs to be added.

vii. Meetings: Indicate when and how often the Entity is meeting and whether any emergency meetings have been held. If emergency meetings have been held, indicate the basis of the emergency and topic of the meeting.

viii. 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: Entities 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:

i. Names: Provide the name and purpose of the Entity, a list of the Members and their titles and the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.

ii. Meetings: Provide when meetings held, where they are held, at what time they are held and whether they are open or closed.

iii. Stipends: Provide the amount of the stipend that is paid per meeting.

iv. Budget: Provide the Entity'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 Entity's original budget, an explanation for why the budget was exceeded.

v. Goals and Accomplishments: Provide up to three (3) accomplishments the Entity achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Entity will pursue in the new fiscal year.

vi. Logo and Images: Provide the Entity's logo that may be included in the report and any other pictures or images that the Entity would like to be considered by Secretary for inclusion in the report.

vii. Department Reporting: Entities with oversight of a Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

a. Names: Provide the name and purpose of the Department as well as the contact person for the

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Department and their contact information including phone number, mailing address, email address, and the Department's website.

- b. Budget: Provide the total budget for the previous fiscal year and the funding sources including Tribal contribution, grants, and other sources. Also provide what the actual budget expensed was at the close of the fiscal year, and, if not within the Department's original budget, an explanation for why the budget was exceeded.
- c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.
- d. Service Base: Provide a brief description of who the Department serves as its service base.
- e. Goals and Accomplishments: Provide up to three (3) accomplishments the Department achieved in the previous fiscal year and how each accomplishment impacted the Oneida community. Also, provide three (3) strategic goals the Department will pursue in the new fiscal year.
- f. Logo and Images: Provide the Department's logo that may be included in the report and any other pictures or images that the Department would like to be considered by Secretary for inclusion in the report.

C. Semi-Annual Reporting: Entities 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:

- i. Names: Provide the name of the Entity and, if there have been any changes since the annual report, provide an update of the following information:
  - a. the purpose of the Entity;
  - b. a list of the Entity's Members and their titles;
  - c. the contact person for the Entity and their contact information including phone number, mailing address, email address, and the Entity's website.
- ii. Meetings: If there have been any changes since the annual report, provide an update of when meetings held, where they are held, at what time they are held and whether they are open or closed.
- iii. Stipends: If there have been any changes since the annual report, provide an update of the amount of the stipend that is paid



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per meeting.

iv. Goals and Accomplishments: Provide on update on the three (3) strategic goals the Entity named in its annual report.

v. Logo and Images: Provide any pictures or images that the Entity would like to be considered by Secretary for inclusion in the report and, if the Entity's logo has changed since the annual report, provide the new logo that may be included in the report.

vi. Department Reporting: Entities with oversight of a Department shall also provide a report on the Department overseen by the Entity; at a minimum, the report must contain the following information:

a. Names: Provide the name of the Department and, if there have been any changes since the annual report, provide an update of the Department's purpose and/or the contact person for the Department and their contact information including phone number, mailing address, email address, and the Department's website.

b. Budget: Provide the total budget for the current fiscal year and the funding sources including Tribal Contribution, grants, and other sources.

c. Employees: Provide how many employees the Department has and how many of those employees are enrolled Tribal members.

d. Logo and Images: Provide any pictures or images that the Department would like to be considered by Secretary for inclusion in the report and, if the Department's logo has changed since the annual report, provide the new logo that may be included in the report.

e. "Article V. Amendments" is to consist of:

1. Amendments to By-laws. Explain how amendments to the by-laws may be initiated by the Entity, provided that, amendments must conform to the requirements of this and any other policy and must be approved by the Oneida Business Committee prior to implementation.

#### Article IX. Minutes

9-1. All minutes must be submitted to the Secretary within a reasonable time after approval by the Entity.

9-2. Actions taken by an Entity are valid when minutes are approved, provided that, minutes are filed in accordance with this Article and the Entity's approved by-laws.

9-3. No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an Entity unless specifically required by the by-laws of that Entity.

9-4. In the event of dissolution of an Entity, all files and documents are required to be

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forwarded to the Secretary for proper storage and disposal.

**Comment [LMS51]:** This disposal should reference and be in accordance with the Open Records and Open Meetings law.

#### Article X. Dissolution of Entities

10-1. Entities of the Tribe may be dissolved according to this Article; however, additional specific directions may be included in an Entity's by-laws.

10-2. A Task Force or Ad Hoc Committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a Task Force or Ad Hoc Committee must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

**Comment [LMS52]:** In accordance with the Open Records and Open Meetings law.

10-3. All other Entities may only be dissolved by motion of the Oneida General Tribal Council or the Oneida Business Committee, provided that an Entity created by the General Tribal Council may only be dissolved by a motion of the Oneida General Tribal Council. Unless otherwise indicated, the materials generated by these Entities must be forwarded to the Secretary for proper disposal within two (2) weeks of dissolution.

**Comment [LMS53]:** In accordance with the Open Records and Open Meetings law.

10-4. All chairpersons and secretaries of dissolved Entities shall close out open business of the Entities and forward materials to the Secretary.

#### Article XI. Stipends, Reimbursement and Compensation for Service

11-1. Compensation and reimbursement for expenses must be as set out in this Article and according to procedures for payment as set out by the Tribe.

**Comment [LMS54]:** Add sub-section or define compensation so that compensation may be in the form of a cash equivalent.

11-2. The Tribe recognizes that persons serving on Entities of the Tribe incur some expense. Therefore, the Tribe, in order to attract persons to serve on Entities, shall pay Stipends to these Members in accordance with this Article.

11-3. *Meeting Stipends for Members of Appointed Entities.* Except as provided in sub-article (a) and unless otherwise declined by the Entity, or declined by a Member(s), appointed Members serving on appointed Entities are to be paid a Stipend of no more than \$50 per month when at least one (1) meeting is conducted where a quorum has been established in accordance with the duly adopted by-laws of that Entity. Such meeting must last for at least one (1) hour and Members collecting Stipends must be present for at least one (1) hour of the meeting.

**Comment [LMS55]:** This implies the Entity (a majority vote?) can decline the stipend, but what occurs to a Member who doesn't agree with the decision of the Entity?

a. Members serving on the Oneida Child Protective Board are exempt from the \$50 Stipend per month limitation and are to receive a \$50 Stipend for each meeting held in accordance with 11-3.

**Comment [LMS56]:** There should be consideration for limiting this exception to 3 or 4 meetings a month. This language looks open-ended. Another option for consideration is to delete this exception.

11-4. *Meeting Stipends for Members of Elected Entities.* Unless otherwise declined by the Entity, or declined by a Member(s), Members serving on elected Entities are to be paid a minimum Stipend of \$50 for each meeting which has established a quorum in accordance with the duly adopted by-laws of that Entity for at least one (1) hour, regardless of the length of the meeting. Members collecting Stipends shall be present for at least one (1) hour of the meeting, regardless of the length of the meeting.

**Comment [LMS57]:** Same as comment #55

11-5. The Oneida Business Committee shall periodically review the amounts provided for meeting Stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this Policy.

11-6. If an Entity, other than the Oneida Gaming Commission, fails to comply with the requirements of this Policy, the Oneida Business Committee may suspend the Entity's

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Members' Stipends with payment of Stipends resuming moving forward once the Entity has demonstrated to the satisfaction of the Oneida Business Committee that it has attained compliance herewith.

- a. If the Oneida Gaming Commission fails to comply with the requirements of this Policy in regards to requirements that are not matters governed by the Oneida Nation Gaming Ordinance, the Oneida Business Committee may impose a fine on any/all Member(s) found to be in noncompliance with this Policy. The fine must be an amount of no less than \$50 but not more than \$100. In addition, either in lieu of the fine or in addition to the fine, the Oneida Business Committee may suspend all employment benefits that are not essential to the Member's employment requirements as a condition of gaming licensing, for example, non-essential travel.

11-7. *Conferences.* A Member of any Entity must be reimbursed in accordance with the Oneida Travel and Expense Policy for travel and per diem to offset the Member's costs for attending a Conference, provided that:

- a. A Member is eligible for a \$100 Stipend for each full day the Member is present at the Conference, when attendance at the Conference is required by law, by-law or resolution.
- b. A Member is not eligible for a Conference Stipend if that Conference is not required by law, by-law or resolution.
- c. No Stipend payments may be made for those days spent traveling to and from the Conference.

11-8. All Members of Entities are eligible for reimbursement for normal business expenses naturally related to membership in the Entity.

11-9. Task Force and Ad Hoc Committee Members and Members of subcommittees are not eligible for Stipends unless a specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

## Article XII. Confidential Information

12-1. The Tribe is involved in numerous business ventures and governmental functions where it is necessary that private information be kept in the strictest confidence to assure the continued success and welfare of the Tribe. It is in the best interest of the Tribe that all Members maintain all information in a confidential manner, whether of historical, immediate, or future use or need. The Tribe desires that all Members who have access to the Tribe's confidential information be subject to specific limitations in order to protect the interest of the Tribe. It is the intention of the Tribe that no persons engaged by the Tribe, nor their relatives or associates, benefit from the use of confidential information.

12-2. Confidential information means all information or data, whether printed, written, or oral, concerning business or customers of the Tribe, disclosed to, acquired by, or generated by Members in confidence at any time during their elected or appointed term or during their employment.

12-3. Confidential information must be considered and kept as the private and privileged records of the Tribe and may not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.

**Comment [LMS58]:** If an Member received a \$50 stipend, regardless of the length of the meeting, then this be the same. Or, I would prefer we pay them travel expenses only and no stipend.



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12-4. A Member will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Tribe is entitled to seek an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the Member's relationship with the Tribe and the Entity.

12-5. Members shall surrender to the Tribe, in good condition, all records kept by the Member pertaining to Entity membership upon completion of their term of membership, for any cause whatsoever.

12-6. No Member may disclose confidential information acquired by reason of his/her relationship or status with the Tribe for his/her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.

### **Article XIII. Conflicts of Interest**

#### *Subpart A. General.*

13-1. The Tribe recognizes the ability of all persons to serve on an Entity. However, it is also recognized that the delegated authority and responsibilities of an Entity may cause conflict with membership on other Entities or employment.

13-2. The Tribe shall request all candidates to disclose possible conflicts of interest prior to election or appointment in order to allow any potential conflicts to be resolved in a timely manner.

13-3. Members shall disclose and resolve conflicts of interest in a reasonable and timely manner. Failure to resolve conflicts may result in removal from office from an elected Entity and may result in termination from an appointed Entity. All applicants shall submit, with the Application forms, a signed conflict of interest declaration disclosing all known conflicts.

13-4. This Article sets forth specifically prohibited conflicts of interests. However, for any individual candidate or Member of an Entity, additional conflicts may arise within the by-laws of that Entity or employment relationships.

13-5. No Member may act as a consultant, agent, representative for, or hold any position as an officer, director, partner, trustee, or belong as a Member in a board, committee or commission, or the like without first disclosing such activity to determine possible conflicts of interest.

#### *Subpart B. Employment Interests.*

13-6. No Member may hold office in an Entity which has authority over the area in which the Member is employed by the Tribe or elsewhere. The Tribe recognizes the ability of all persons to serve on Entities of the Tribe, but also recognizes the conflict arising out of membership on an Entity and employment in an area over which the Entity has authority.

13-7. Employment is defined for this subpart as that area which the employee supervises or is supervised in regards to a specific subject matter.

13-8. Authority of an Entity is defined for this subpart as that area over which the Entity has subject matter jurisdiction delegated either by the Oneida Business Committee or the Oneida General Tribal Council, and for which such authority may be regulatory, oversight, or otherwise.

**Comment [LMS59]:** What does "or elsewhere" mean, any department?

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*Subpart C. Financial Interests, Investments, and Gifts.*

13-9. No Member, or their Immediate Family, may have a financial interest in any transaction between the Entity and an outside party.

a. For the purposes of this Policy, financial interest means any profit sharing arrangements, rebates, payments, commissions, or compensation, in any form, and includes any form of ownership, regardless of ability to control the activities of the business, provided that, this does not include ownership of shares which, other than in combination others, cannot exert a controlling influence on the activities of the business and in relation to the outstanding shares, the ownership of shares represents a small part of the whole.

13-10. As referred to in this Subpart C, for the purposes of defining conflicts, Entity includes the programs or enterprises over which the Entity has delegated authority.

13-11. Members shall avoid personal investment in any business with which the Tribe has or is expected to have a contractual or other business relationship. Notwithstanding the foregoing, an investment by a Member in a business with which the Tribe has dealings is permissible if the Oneida Business Committee or other delegated authority determines in writing that:

- a. the investment cannot be considered to have been made on the basis of confidential information; and
- b. the investment cannot be expected to adversely affect or influence the Member's judgment in the performance of any services or obligations on behalf of the Tribe.

13-12. Members may not use their relationship with the Tribe to exercise undue influence to obtain anything which is not freely available to all prospective purchasers.

13-13. Members may not accept gifts, payments for personal gain, opportunities to invest, opportunities to act as an agent, a consultant, or a representative for actual or potential purchasers, sales sources, contractors, consultants, customers or suppliers, or accept any direct or indirect benefit from any actual or potential purchaser, sales source, contractor, consultant, customer, or supplier.

13-14. Members may not accept any gift, entertainment, service, loan, promise of future benefits or payment of any kind which the Oneida Business Committee, or other delegated authority, determines may adversely affect or influence the Members' judgment in the performance of any services, duties, obligations or responsibilities to the Tribe, or may impair confidence in the Tribe and the Tribe's Entities.

13-15. Notwithstanding the foregoing, Members may accept or provide business-related meals, entertainment, gifts or favors when the value involved is insignificant and the Oneida Business Committee or other delegated authority has determined that it clearly will not place him or her under any obligation.

*Subpart D. Competition with the Tribe.*

13-16. Members shall not enter into competition with the Tribe regarding the purchase or sale of any property, property rights or property interests, without prior consent of the Tribe.

13-17. A Member may enter into competition with the Tribe when the activity engaged in is approved through an Oneida entrepreneur development program or other similar Oneida

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program and does not otherwise violate this Policy.

*Subpart E. Use of the Tribe's Assets.*

13-18. All bank accounts for the Tribe's funds must be maintained in the name of the Tribe and will be reflected on the Tribe's books in accordance with the Generally Accepted Accounting Principles.

13-19. Each Member shall comply with the system of internal accounting controls sufficient to provide assurances that:

- a. all transactions are executed in accordance with management's authorization; and
- b. access to assets is permitted only in accordance with management's authorization; and
- c. all transactions are recorded to permit preparation of financial statements in conformity with the Generally Accepted Accounting Principles or other applicable criteria.

13-20. Any records created or obtained as a Member of an Entity are the property of the Tribe and can only be removed or destroyed if approved by the Entity via a majority vote of a quorum of the Entity at a duly called meeting. All removal or destruction of documents must be conducted in accordance with the Open Records and Open Meetings Law.

*Subpart F. Disclosure.*

13-21. Each Member shall disclose any outside activities or interests that conflict or suggest a potential conflict with the best interests of the Tribe by completely filling out the Application for membership or informing the Oneida Business Committee or other designated authority after election or appointment of a conflict arising during membership on an Entity.

*Subpart G. Reporting.*

13-22. All conflicts or potential conflicts that arise during membership on an Entity must be immediately reported to the Secretary. Upon receiving information of a potential conflict of interest, the Secretary shall request a determination from the Oneida Law Office whether further action must be taken by the Tribe regarding the status of the Member.

13-23. Any evidence of noncompliance with any Policy regarding the use of the Tribe's assets must be immediately reported to the internal audit staff. If the internal audit staff finds evidence of noncompliance, they shall notify the Oneida Law Office. The Oneida Business Committee and/or the Oneida Law Office shall then make a determination of further action to be taken, if any.

*Subpart H. Enforcement and Penalties.*

13-24. Members found to be in violation of this Policy may be removed pursuant to the Removal Law, if a Member of an elected Entity, or have their appointment terminated, if a Member of an appointed Entity.

- a. A Member who has been terminated or removed is ineligible for Appointment or election to any Entity for at least one (1) year from the effective date of the termination or removal.

13-25. Candidates for appointment or election to an office found to be in violation of this Policy may be disqualified from taking office.



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*End.*

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Adopted - BC-8-2-95-A  
Amended - BC-5-14-97-F  
Emergency Amendments - BC-03-06-01-A (expired)  
Emergency Amendments - BC-04-12-06-JJ  
Emergency Amendments - BC-11-12-09-C  
Emergency Amendments Extension - BC-05-12-10-I (expired)  
Amended - BC-9-27-06-E (permanent adoption of emergency amendments)  
Amended - BC-09-22-10-C  
Amended -



# Legislative Operating Committee

## February 3, 2016

# Oneida Higher Education Scholarship

**Submission Date:** October 15, 2014

☐ Public Meeting:  
☐ Emergency Enacted:

**LOC Sponsor:** Fawn Billie

**Summary:** *Higher Education proposed funding changes for Fall 2014-2015. The OBC requested a legislative analysis of the changes which were made to the Student Handbook. Following this action, the OBC directed the LOC to look at codifying the rules created by the Higher Education Office, which currently govern how Higher Ed disburses higher education funding in accordance with GTC directives.*

**08/23/14 OBC:** Motion by Vince Delarosa request the BC to direct the proposed Higher Education changes be put on hold until 1) A legal review and legislative analysis are completed and 2) A notice of the amendments and the effects of the amendments are provided to the GTC at an Annual or Semi-Annual meeting, seconded by Brandon Stevens. Motion carried unanimously.

Motion by David Jordan to direct Higher Education and Governmental Division to send out a notification in the next Kalihwisaks and to include all the students that are within their database who are applying for financial assistance in that notification, saying that the new proposed changes are being put on hold, seconded by Vince Delarosa. Motion carried unanimously.

**10/01/14 LOC:** Motion by Fawn Billie to approve the memo and forward to the Oneida Business Committee for acceptance; seconded by Jennifer Webster. Motion carried unanimously.

**10/08/14 OBC:** Motion by Lisa Summers to send this issue back to LOC for a draft law or policy to come back to the Business Committee when ready, seconded by Trish King. Motion carried unanimously.

**10/15/14 LOC:** Motion by Jennifer Webster to add Higher Education to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

*Note: Fawn Billie will be the sponsor.*

**12/17/14 LOC:** Motion by Jennifer Webster to accept the memorandum regarding the status of the Higher Education Law as FYI; seconded by Fawn Billie. Motion carried unanimously.

**5/20/15:** Work meeting held, attendees include: Pat Garvey, Candice Skenandore, Mitchell Metoxen, Fawn Billie, David P. Jordan, Leyne Orosco, Fawn Cottrell.

**7/17/15:** Work meeting held, attendees include: Fawn Billie, David Jordan, Tehassi Hill, Jennifer Webster, Cheryl Vandenberg, Paula Ripple, Don White, Mistylee Herzog, Mitchel Metoxen, Fawn Cottrell, Krystal John, Candice Skenandore.

- 7/24/15:** Strategy meeting held, attendees include: David Jordan, Tehassi Hill, Jennifer Webster, Brandon Stevens, Krystal John, Candice Skenandore.
- 8/5/15 LOC:** Motion by David P. Jordan to direct the Legislative Reference office to makes the noted revisions and to defer the Oneida Higher Education Scholarship (Law), as revised, for a legislative analysis and a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.
- 9/16/15 LOC:** Motion by David P. Jordan to defer Oneida Higher Education Scholarship to the Legislative Reference Office to make the discussed changes and bring it back to the next LOC meeting; with a Public Meeting packet prepared for the LOC to review; seconded by Tehassi Hill. Motion carried unanimously.
- 10/7/15 LOC:** Motion by Jennifer Webster to forward the Oneida Higher Education Scholarship to a public meeting to be held on October 29, 2015 at 12:15 p.m.; seconded by David P. Jordan. Motion carried unanimously.
- 10/29/15:** Public Meeting held.
- 11/18/15 LOC:** Motion by David P. Jordan to accept the public meeting comments regarding the Oneida Higher Education Scholarship and defer to a LOC work meeting to be held on November 23, 2015; seconded by Tehassi Hill. Motion carried unanimously.
- Note: LOC work meeting will be held on November 23, 2015 at 10 a.m. in the B.C.C.R.*
- 11/23/15:** Work meeting held to consider public meeting comments. Attendees include: Fawn Billie, Brandon Stevens, David P. Jordan, Jennifer Webster, Rita Lara, Mitchell Metoxen, Jessica Last, Cheryl Vandenberg, Don White, Mike Debraska, Nancy Barton, Sherry King, Paula Ripple, Norbert Hill, Nicolas Reynolds, Kathy L. Metoxen and Krystal John.
- 12/1/15:** Work meeting held to finish considering public meeting comments. Attendees include: Fawn Billie, Brandon Stevens, Jennifer Webster, Mitchell Metoxen, Jessica Last, Cheryl Vandenberg, Don White, Nancy Barton, Paula Ripple, Norbert Hill, Kathy L. Metoxen, Anita Barber and Krystal John.
- 1/6/15 LOC:** Motion by Fawn Billie to defer the Oneida Higher Education Scholarship to the next Legislative Operating Committee meeting to allow for an updated fiscal impact statement and for the Higher Education Student Handbook to be approved by the Director of Government Services; seconded by David Jordan. Motion carried unanimously.

Amendment to the main motion by David P. Jordan to require the Chief Counsel to prepare a written legal opinion considering whether the Law conflicts with the General Tribal Council resolutions related to the Higher Education Scholarship; seconded by Jennifer Webster. Motion carried unanimously.

#### **Next Steps:**

- Approve the Oneida Higher Education Scholarship Law adoption packet to be forwarded for the Oneida Business Committee's consideration.



# 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:** Oneida Business Committee  
**From:** Brandon Stevens, LOC Chairperson *BS*  
**Date:** February 10, 2016  
**Re:** Oneida Higher Education Scholarship Law

Please find the following attached backup documentation for your consideration of the new Oneida Higher Education Scholarship Law:

1. Resolution: Oneida Higher Education Scholarship Law
2. Statement of Effect: Oneida Higher Education Scholarship Law
3. Oneida Higher Education Scholarship Law Legislative Analysis
4. Oneida Higher Education Scholarship Law (clean)
5. Oneida Higher Education Scholarship Law Fiscal Impact Statement
6. Legal Opinion: Oneida Higher Education Scholarship Law

## Overview

This Resolution adopts a new Oneida Higher Education Scholarship Law. This Law:

- Identifies the duties and responsibilities of the Oneida Higher Education Office (OHE);
- Lists the eligibility and requirement factors for being awarded a Scholarship;
- Sets the length of funding limits;
- Identifies the tiered funding systems with maximum funding caps;
- Provides a mechanism and terms under which OHE may provide an exception to the requirements contained in the Law and the student handbook;
- Outlines when appeals are available and provides a general appeal procedure;
- Delegates rulemaking authority to OHE to create a student handbook to implement the Law in greater detail, provided that the handbook must comply with the Law and the GTC resolutions.

In accordance with the Legislative Procedures Act, a public meeting was held regarding these amendments on October 29, 2015 and the comments received during that process were considered by the LOC at work meetings held on November 23, 2015 and December 1, 2015.

## Requested Action

Approve the Resolution: Oneida Higher Education Scholarship Law

**BC Resolution \_\_\_\_\_**  
*Oneida Higher Education Scholarship*

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

**WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and

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

**WHEREAS,** GTC gave the Oneida Business Committee the authority to adopt the Oneida Higher Education Scholarship pursuant to GTC Resolution 01-30-10-A , which recognized Special BC Resolution 07-24-02-A (an Amendment to GTC Resolution 08-12-96-A) by stating “that the requirements of GTC-08-12-96-A, and the subsequent amendments to that resolution shall remain in effect;” and

**WHEREAS,** Special BC Resolution 07-24-02-A provides “that the Business Committee is hereby responsible for enacting future amendments relating to scholarships, with notification provided to the General Tribal Council, at the first opportunity, either at the Annual or Semi-Annual Meeting, whichever is sooner;” and

**WHEREAS,** the Oneida Business Committee directed the Legislative Operating Committee to develop a Higher Education Scholarship Law that would formalize the General Tribal Council Resolutions into a Law and provide a consistent methodology for awarding Higher Education Scholarships so that the Tribe is able to provide educational opportunities to Tribal Members and award Scholarships in a consistent and fiscally responsible manner; and

**WHEREAS,** the Oneida Higher Education Scholarship Law includes the requirements found in GTC Resolutions related to eligibility, student participation requirements and the tiered funding system, including maximum funding caps and length of eligibility; and

**WHEREAS,** the Law includes an exception provision which allows the Oneida Higher Education Office to waive select clearly identified requirements of the law under narrow grounds and on a case-by-case basis in accordance with a standard operating procedure that the Oneida Higher Education shall develop prior to issuing any exceptions; and

36 **WHEREAS,** the Law provides the grounds under which a student may appeal a decision made  
37 by the Oneida Higher Education Office, which levels of appeal are available, and  
38 which parties are responsible for considering each level of appeal; and

39 **WHEREAS,** the Law delegates the authority to the Oneida Higher Education Office to develop  
40 a Higher Education Student Handbook that provides additional rules related to the  
41 implementation of this Law; and

42 **WHEREAS,** the Law requires that the Oneida Business Committee approve and adopt the  
43 Higher Education Student Handbook prior to it becoming effective, provided that,  
44 pursuant to this Resolution, upon adoption of the Rulemaking Law the said  
45 Handbook will become subject to the requirements of the Rulemaking Law for  
46 any future amendments; and

47 **WHEREAS,** a public meeting on the proposed Law was held on October 29, 2015 in  
48 accordance with the Legislative Procedures Act.

49 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Higher Education Scholarship is  
50 hereby adopted.

51 **NOW BE IT FINALLY RESOLVED,** that the Oneida Business Committee shall present this  
52 Law at the next semi-annual GTC meeting, in accordance with Special BC Resolution 07-24-  
53 04-C.

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# Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Krystal L. John, Staff Attorney  
Douglass A. McIntyre, Staff Attorney  
Taniquele J. Thurner, Legislative Analyst  
Maureen Perkins, LTE Legislative Analyst



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

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

## Statement of Effect

*Resolution: Oneida Higher Education Scholarship*

### Summary

This Resolution adopts the Oneida Higher Education Scholarship (Law). This is a new Law that:

- Identifies the duties and responsibilities of the Higher Education Office which include awarding scholarships, developing and maintaining rules and regulations to carry out this Law and developing and maintaining a system of internal controls for the Higher Education Office [See 401.4-1].
- Lists the eligibility and requirements for an applicant seeking a scholarship [See 401.5].
- Sets the length of funding, identifies the different tiered funding systems and explains how the scholarship amount is determined [See 401.6].
- Allows the Higher Education Office to make exceptions to eligibility, requirements and length of funding on a case-by-case basis. The Higher Education Student Handbook sets out the exception process [See 401.7-2 & 401.7-3].
- Allows an applicant to appeal a scholarship decision only if he/she can show the Higher Education Office failed to abide by this Law and/or the Higher Education Student Handbook [See 401.9-1].
- Provides the grounds under which an applicant may appeal a decision made by the Higher Education Office, the levels of appeal available, and identifies which parties are responsible for hearing each level of appeal [401.9-2].

*Submitted by Krystal L. John, Staff Attorney, Legislative Reference Office*

### Analysis from Legislative Reference Office

The Oneida Business Committee directed the Legislative Operating Committee to develop a Higher Education Scholarship Law that would formalize the General Tribal Council (GTC) Resolutions and provide a consistent methodology for awarding Higher Education Scholarships in a consistent and fiscally responsible manner.

This Law incorporates the requirements found in GTC Resolutions that relate to eligibility, student participation requirements and the tiered funding system, including the maximum funding caps and length of eligibility.

Although not directed by GTC, this Law provides an exception procedure and formalizes an appeals process for applicants dissatisfied with decisions made by the Oneida Higher Education Office.

The Oneida Higher Education has been issuing exceptions to students under certain circumstances, however, because the GTC has not provided direction on how to offer exceptions, this Law identifies what exceptions are available and the general process by which the Higher Education Office may consider issuing an exception. Under the Law, an applicant may request an exception to the good standing requirement [see 401.5-1(b)], the requirement that the scholarship be for a degree in a higher funding tier than a previously earned degree [see 401.5-(e)], the requirement to complete a FAFSA form [see 401.5-2(a)], and/or the maximum lengths of funding [see 401.6-1]. In addition, this Law requires the Higher Education Office to develop a standard operation procedure prior to issuing any exceptions pursuant to the Law.

This Law formalizes an appeal process and requires the Higher Education Office to develop additional rules to govern the process.

The Oneida Business Committee is authorized to adopt this Law based Special BC Resolution 07-24-02-A which states, "that the Business Committee is hereby responsible for enacting future amendments relating to the scholarships..." Special BC Resolution 07-24-02-A was an amendment to the General Tribal Council Resolution 08-12-96-A and the Special BC Resolution was recognized by the General Tribal Council in Resolution 01-30-10-A, which states "that the requirements of GTC-08-12-19-A, and the subsequent amendments to that resolution shall remain in effect."

Pursuant to Special BC Resolution 07-24-02-A, the Oneida Business Committee is responsible for providing the General Tribal Council with notice of this Law "at the first opportunity, either at the Annual or Semi-Annual Meeting, whichever is sooner."

### ***Conclusion***

Adoption of this Resolution would not conflict with Tribal law.



Analysis to Draft 12 for OBC Consideration

## Oneida Higher Education Scholarship

<i>Analysis by the Legislative Reference Office</i>					
<b>Title</b>	Oneida Higher Education Scholarship (Law)				
<b>Requester</b>	OBC Referral	<b>Drafter</b>	Krystal L. John	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	The Higher Education Office proposed funding changes. The OBC requested a legislative analysis and directed that the LOC look at codifying the rules created by the Department, which currently governs how the Department disburses higher education funding in accordance with GTC directives.				
<b>Purpose</b>	The purpose of this Law is to implement a scholarship program that is compliant with GTC directives and to specify the funding requirements and procedural controls [See 401.1-1].				
<b>Authorized/ Affected Entities</b>	Higher Education Office, Area Manager of Education & Training or equivalent Governmental Services Division Director or equivalent, and any eligible Tribal member seeking a scholarship				
<b>Due Process</b>	A student can appeal a scholarship decision to the review panel, if dissatisfied with the review panel's decision; the student can appeal to the Division Director. The Division Director's decision is final [See 401.9].				
<b>Related Legislation</b>	Higher Education Student Handbook, Higher Education Office's system of internal controls				
<b>Policy Mechanism</b>	Higher Education Scholarships				
<b>Enforcement</b>	The Higher Education Office can place a student who violates this Law or fails to comply with the Higher Education Student Handbook on probation or suspension [See 401.8-1].				

### Overview

This is a new Law that:

- Identifies the duties and responsibilities of the Higher Education Office which includes awarding scholarships pursuant to this Law, developing and maintaining rules and regulations to carry out this Law and developing and maintaining a system of internal controls for the Higher Education Office [See 401.4-1].
- Lists the eligibility and requirements for an applicant seeking a scholarship which includes being a Tribal member; be in good standing; be accepted to an accredited vocational program, college or university; seek a scholarship for semesters/terms which have not already ended or been completed and seek a scholarship for a degree that is categorized in a funding tier that is higher than the funding tier of a previously earned degree [See 401.5].
- Sets the length of funding, identifies the different tiered funding systems and explains how the scholarship amount is determined [See 401.6].
- Allows the Higher Education Office to make exceptions to eligibility, requirements and length of funding on a case-by-case basis. The Higher Education Student Handbook sets out the exception process [See 401.7-2 & 401.7-3].
- Allows an applicant to appeal a scholarship decision only if he/she can show the Higher



## Oneida Higher Education Scholarship

Education Office failed to abide by this Law and/or the Higher Education Student Handbook [See 401.9-1].

- If an applicant appeals a scholarship decision, the Higher Education Office Review Panel, made of two Higher Education advisors and either the Higher Education Office manager or the area manager, will review the appeal and make a decision. If the applicant is dissatisfied with the review panel's decision, he/she can appeal to the division director. The division director's decision is final [401.9-2].

### Considerations

The LOC may want to consider the following:

- General Tribal Council (GTC) must be notified of any amendments related to scholarships either at the Annual or Semi-Annual meeting, whichever is sooner [See GTC Resolution 7-24-02-A].

### Miscellaneous

A public meeting was held on October 29, 2015, in accordance with the Legislative Procedures Act. Please refer to the fiscal impact statement for any financial impact.

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## Chapter 401

### Oneida Higher Education Scholarship

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people of the Standing Stone, the great place where they teach them the traditions, money

401.1. Purpose and Policy

401.2. Adoption, Amendment, Repeal

401.3. Definitions

401.4. Higher Education Office

401.5. Eligibility and Requirements

401.6. Higher Education Scholarship

401.7. Exceptions

401.8. Enforcement

401.9. Appeals

#### 401.1. Purpose and Policy

401.1-1. *Purpose.* The purpose of this Law is:

(a) To implement a scholarship program that is compliant with the following resolutions GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, and GTC-01-30-10-A.

(b) To specify the funding requirements and procedural controls for awarding Scholarships.

401.1-2. *Policy.* It is the policy of this Law to have a consistent methodology for awarding Higher Education Scholarships so that the Tribe is able to provide educational opportunities to Tribal Members and award Scholarships in a consistent and fiscally responsible manner.

#### 401.2. Adoption, Amendment, Repeal

401.2-1. This Law was adopted by the Oneida Business Committee by resolution \_\_\_\_\_.

401.2-2. This Law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

401.2-3. 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.

401.2-4. In the event of a conflict between a provision of this Law and a provision of another Tribal law, the provisions of this Law control.

401.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

#### 401.3. Definitions

401.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “Accredited vocational program, college or university” means either any United States educational institution officially accredited by an agency recognized by the United States Department of Education or any Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.

(b) “Appeal” means a request for review of a Scholarship decision made by the Higher Education Office or Higher Education Office Review Panel for which the requestor must demonstrate that the Higher Education Office has failed to abide by the provisions of this Law and/or the approved Higher Education Student Handbook.

(c) “Area Manager” means the supervisor of Education & Training or anyone with the responsibility of overseeing the Higher Education Office.

(d) “Division Director” means the Division Director of Governmental Services or anyone

with the responsibility of overseeing the Area Manager of the Higher Education Office.

(e) “Exception” means a request that the Higher Education Office make a discretionary decision to exempt an applicant from a requirement(s) for which there is an available exemption under Section 401.7-2.

(f) “Financial Needs Analysis” is a form which reports a school’s cost of attendance and eligible Financial Aid awards, which is sent by the Higher Education Office directly to the school’s financial aid office for completion.

(g) “Free Application for Federal Student Aid” is an application which determines eligibility for any financial resources such as state and federal funding.

(h) “GPA” means grade point average which is a measure of a student’s academic achievement arrived at by dividing the total grade points received by the total grade points attempted.

(i) “Higher Education Office Review Panel” is a three (3) party review panel, which is to include two Higher Education Advisors, and either the Higher Education Office Manager or the Area Manager.

(j) “Higher Education Student Handbook” is the source of the rules and regulations for carrying out this Law as further described in Section 401.4-1(b).

(k) “Official Transcript” means an official report of a student’s grades sent either directly from the educational institution and certified as official or from the National Student Clearinghouse.

(l) “Scholarship” means monetary funds awarded to an applicant through the Oneida Higher Education program.

(m) “Tribal Member” means an enrolled member of the Oneida Tribe of Indians of Wisconsin.

#### **401.4. Higher Education Office**

401.4-1. The Higher Education Office shall carry out the intent and purposes of this Law and enforce the provisions of this Law. The Higher Education Office shall:

(a) Award scholarships in accordance with this Law.

(b) Develop and maintain rules and regulations designed to carry out this Law and shall make such rules and regulations available in the Higher Education Student Handbook.

(1) At a minimum, the rules and regulations relating to the eligibility requirements, funding caps, enforcement and appeals must comply with this Law and the following Resolutions: GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, and GTC-01-30-10-A.

(2) The Higher Education Student Handbook and any revisions thereto must be approved by the Oneida Business Committee.

(c) Develop and maintain a system of internal controls for the Higher Education Office.

#### **401.5. Eligibility and Requirements**

401.5-1. *Eligibility.* In order to be eligible for a Scholarship award, applicants must:

(a) Be a Tribal Member.

(b) Be in Good Standing where good standing means the applicant has:

(1) met the Oneida GPA requirements set forth in the Higher Education Student Handbook;

(2) completed the total number of credits within the semester/term for which the Scholarship was provided based on an Official Transcript; and

(3) met the standards of the Financial Aid Academic good standing.

(c) Be accepted to an Accredited vocational program, college or university.



(d) Be seeking the Scholarship for semesters/terms which have not already ended or been completed.

(e) Be seeking the Scholarship for a degree that is categorized in a funding tier that is higher than the funding tier of a previously earned degree, based on the funding tiers under Section 401.6-2.

(1) An applicant seeking a degree that is in the same funding tier or lower as another degree simultaneously being pursued, within the funding period allowed for the degree at the higher funding tier, remains eligible and is not prohibited by this Section.

401.5-2. *Requirements.* In order for a Scholarship to be awarded:

(a) Applicants must file the Free Application for Federal Student Aid, unless the applicant will be taking less than six (6) credits or will be attending a Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.

(b) Applicants shall ensure that a complete student file is submitted to the Higher Education Office based on the requirements of the Higher Education Student Handbook.

#### **401.6. Higher Education Scholarship**

401.6-1. *Length of Funding.* Pursuant to the Higher Education Student Handbook, which must provide comprehensive definitions of the achievements eligible for funding and the methodology for calculating funding periods, the following are the maximum Scholarship funding periods for eligible applicants:

(a) Two and one-half (2 1/2) years for a Vocational Program Completion/Associate Degree/Certificate Program Completion/similar program.

(b) Five (5) years for an Undergraduate Degree.

(c) Three (3) years for a Graduate Degree.

(d) Five (5) years for a Doctoral Degree.

401.6-2. *Tiered Funding System.* The General Tribal Council, or its delegate, shall establish maximum funding caps for the following funding tiers:

(a) Vocational Program, Associate Degree, Certificate Program or similar program.

(b) Undergraduate Degree.

(c) Graduate Degree.

(d) Doctoral Degree.

401.6-3. *Award.* The amount of the Scholarship award is based upon:

(a) The amount of funding caps for each tier under Section 401.6-2, which must be contained in the Higher Education Student Handbook.

(b) The Financial Needs Analysis.

#### **401.7. Exceptions**

401.7-1. *Exception Policy.* Exceptions may be offered under narrow grounds only for applicants facing extenuating circumstances whom are able to demonstrate that based on the totality of the circumstances the applicant will likely succeed in achieving the accomplishment sought either within the Exception period and/or despite the extenuating circumstances that have made pursuing an Exception necessary.

(a) Within six (6) months of the adoption this Law, the Higher Education Office shall develop a standard operating procedure for evaluating requests for Exceptions; no Exceptions may be granted pursuant to this Law until the said standard operating procedure has been developed.

401.7-2. *Available Exceptions.* In its discretion, the Higher Education Office may make Exceptions to eligibility, requirements and length of funding on case-by-case basis as provided below:

(a) In regards to eligibility, exceptions may be made relating to the requirements contained in subsections 401.5-1(b) and (e).

(b) In regards to requirements, exceptions may be made relating to the requirement contained in subsection 401.5-2(a).

(c) Exceptions may also be made relating to the length of funding periods contained in section 401.6-1.

(d) Exceptions may not be made for requirements contained in this Law that are not explicitly noted in this section.

401.7-3. *Exception Process.* Applicants requesting an Exception shall follow the process set forth in the Higher Education Student Handbook.

(a) *Granting an Exception.* The Higher Education Review Panel shall consider requests for available Exceptions under Section 401.7-2 based on the Exception Policy identified under Section 401.7-1. A decision by the Higher Education Office Review Panel regarding an Exception must be approved by a majority of the said Panel.

(b) *Requesting Reconsideration of an Exception Decision.* If an applicant disagrees with the Higher Education Office Review Panel's denial of an available Exception under Section 401.7-2, the applicant may file a request for reconsideration of the Exception with the Division Director; the decision of the Division Director regarding the Exception is final.

#### **401.8. Enforcement**

401.8-1. *Accountability.* The Higher Education Office may place any applicant who violates this Law or fails to comply with the Higher Education Student Handbook on probation or suspension in accordance with the Higher Education Office's system of internal controls.

#### **401.9. Appeals**

401.9-1. *Appeal Process and Requirements.* An applicant may Appeal a Scholarship decision made by the Higher Education Office, but only to extent that the applicant is able to demonstrate that the Higher Education Office has failed to abide by the provisions of this Law and/or the approved Higher Education Student Handbook.

401.9-2. *Levels of Review.* The following levels of review are available to an applicant seeking an Appeal of a Scholarship decision made by the Higher Education Office:

(a) The first level of review is through the Higher Education Office Review Panel. A decision by the Higher Education Office Review Panel regarding an Appeal must be approved by a majority of the said Panel.

(b) If an applicant disagrees with the Higher Education Office Review Panel's decision regarding an Appeal, the applicant may Appeal at the second level of review to the Division Director; the decision of the Division Director regarding the Appeal is final.

*End.*

---

Pursuant to resolutions: GTC-08-12-96-A, GTC-12-7-96-C, BC-05-09-01-B, BC-10-24-01-K, BC-07-24-02-A, and GTC-01-30-10-A.

# ONEIDA TRIBE OF INDIANS OF WISCONSIN



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

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

## MEMORANDUM

190 of 227



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

DATE: January 6, 2016  
FROM: Rae Skenandore, Project Manager  
TO: Larry Barton, Chief Financial Officer  
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer  
RE: **Financial Impact of Higher Education Scholarship Law**

### I. Background

The purpose of the law is to implement General Tribal Council (GTC) and Oneida Business Committee (OBC) resolutions regarding the higher education scholarship program and to specify the funding requirements and procedures for awarding scholarships. This is a new law meant to codify the rules of the Higher Education Department. A Public hearing was held on October 21, 2015.

### II. Executive Summary of Findings

The law simply puts a formalized structure to the existing requirements from applicable resolutions. The handbook is being updated to comply with the law. No new personnel will be needed and there are no other startup costs. The law cannot be implemented until the handbook is also approved and appropriate standard operating procedures are developed. The law can be implemented within 10 days of approval.

### III. Financial Impact

No fiscal impact.

### III. Recommendation

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



# Oneida Higher Education Projections

January 2016

Melissa Nuthals  
Statistician

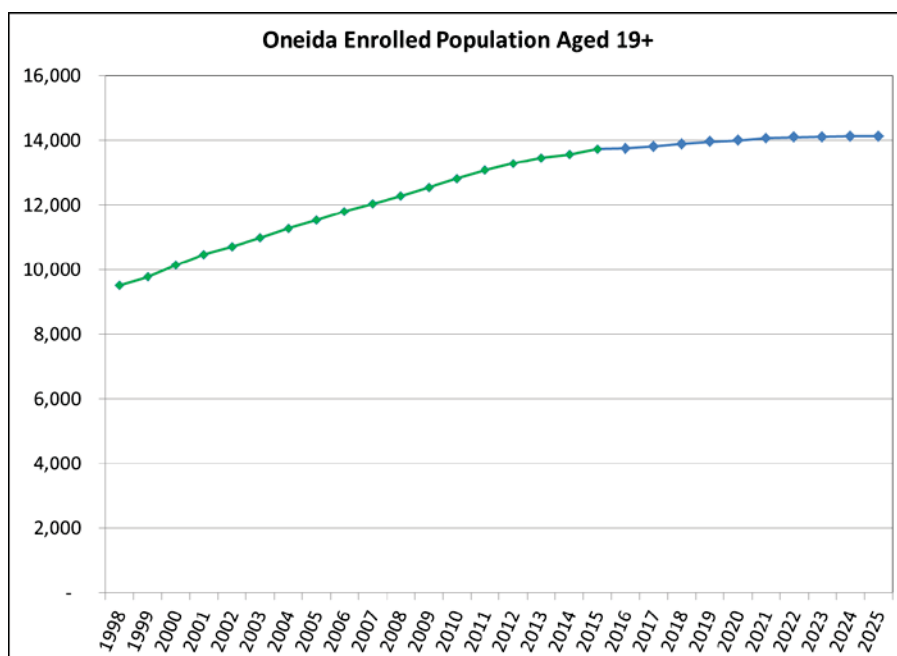
## Oneida Higher Education Projections January 2016

### I. Introduction

The Oneida Higher Education Department supports Oneida enrolled students in the pursuit of continuing education. The program began in 1974. The Oneida Higher Education Department began tracking students through their database in 1997 after the GTC Resolution 8-12-96-A was adopted.

The cost for the Higher Education funds totaled \$3.7 million in 1998 and grew to \$10.8 million in the 2015 academic year. The academic year runs from August 1 through July 31. Based on this large change in cost, it is necessary to project the future costs of the program so that Oneida can prepare accordingly.

The projections are based on historical Oneida Higher Education and Oneida Enrollment data trended forward. A straight linear trend could not be used based on the past totals, because it does not account for the aging Oneida enrolled population. The Oneida enrolled population aged 19+ in 1998 was 10,486 members and in the 2013 academic year it was 13,643. It is expected to grow to over 14,000 in the 2025 academic year. The aging Oneida enrolled population aged 19+ is shown in the chart below.

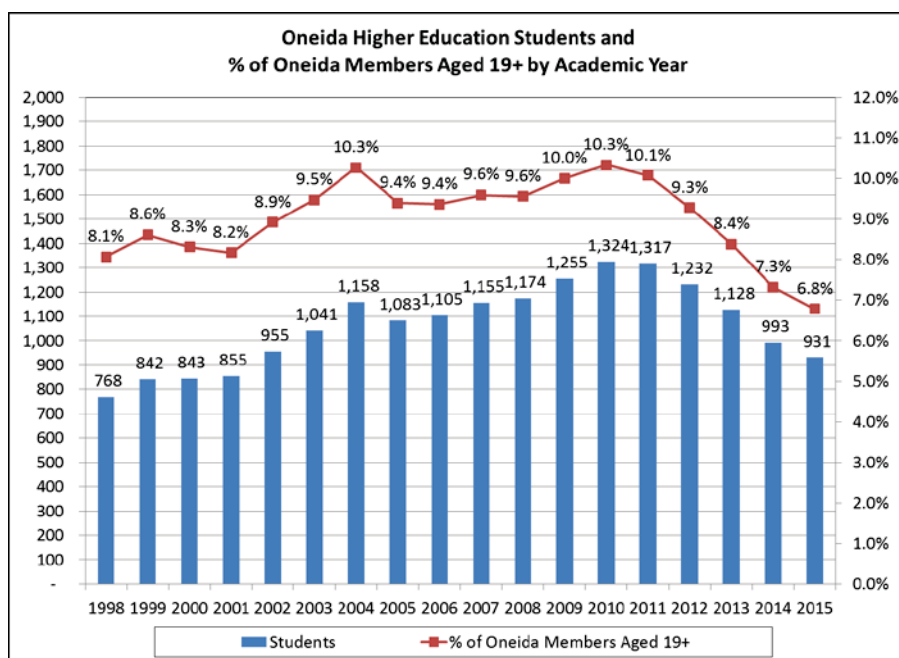


In 2015, 40.5% of Oneida enrolled members aged 19 utilized the higher education funds. According to the United States Bureau of Labor Statistics, 68.4% of 2014 high school graduates in the United States were enrolled in college in October 2014.

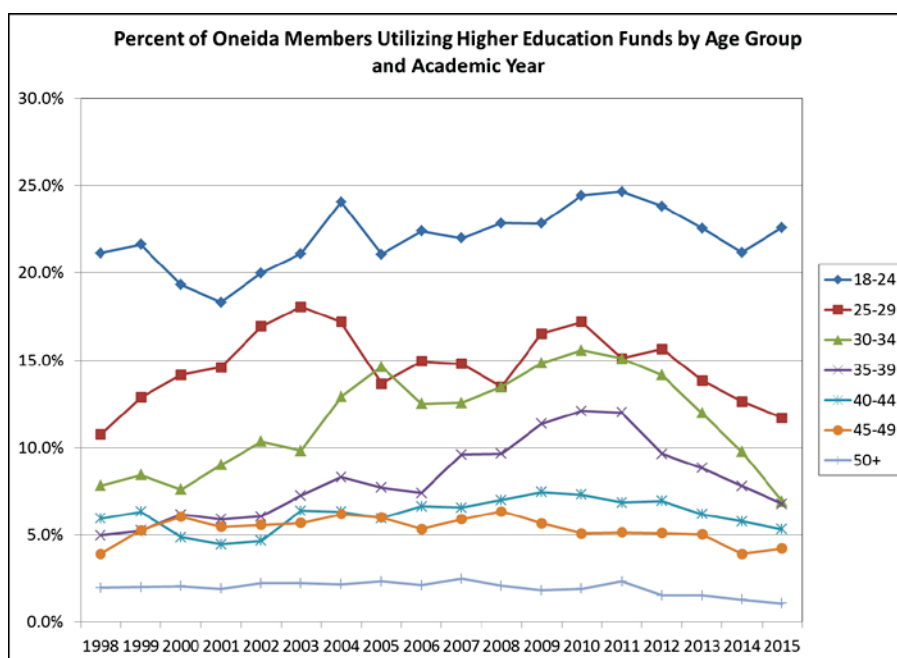
As of the 2015 academic school year, 36% of all enrolled Oneida members aged 19+ have utilized Oneida Higher Education funding since the 1998 academic school year.

## II. Utilization

Participation in the Oneida Higher Education program peaked in the 2010 school year with 1,324 students. Since then, participation has steadily dropped. The past student enrollment in the program per year is depicted in the chart below.



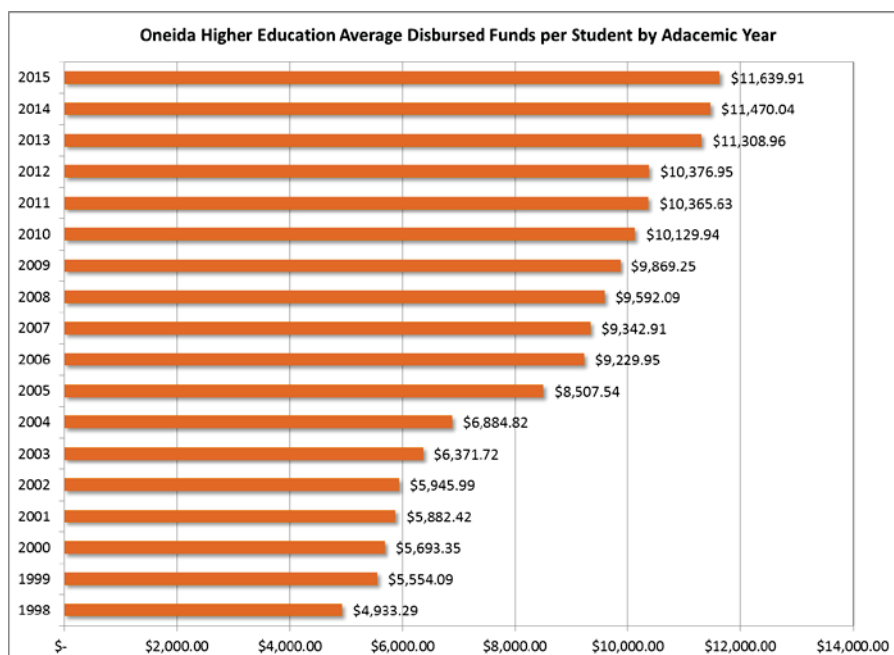
As the age group of members increased, the rate of utilization of Oneida Higher Education funds decreased. The rate of members aged 18-24 who utilized the Oneida Higher Education funding was 21.9% in 2015 and had stayed between 18% and 25% since 1998. The following chart shows the percentage of Oneida members who received Oneida Higher Education funding by age group.



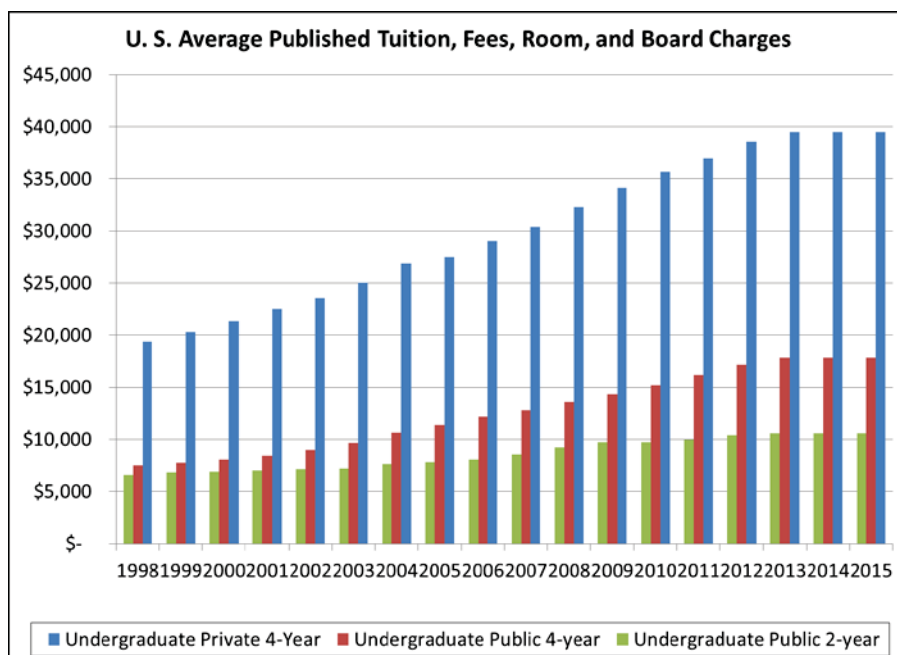


### III. Cost

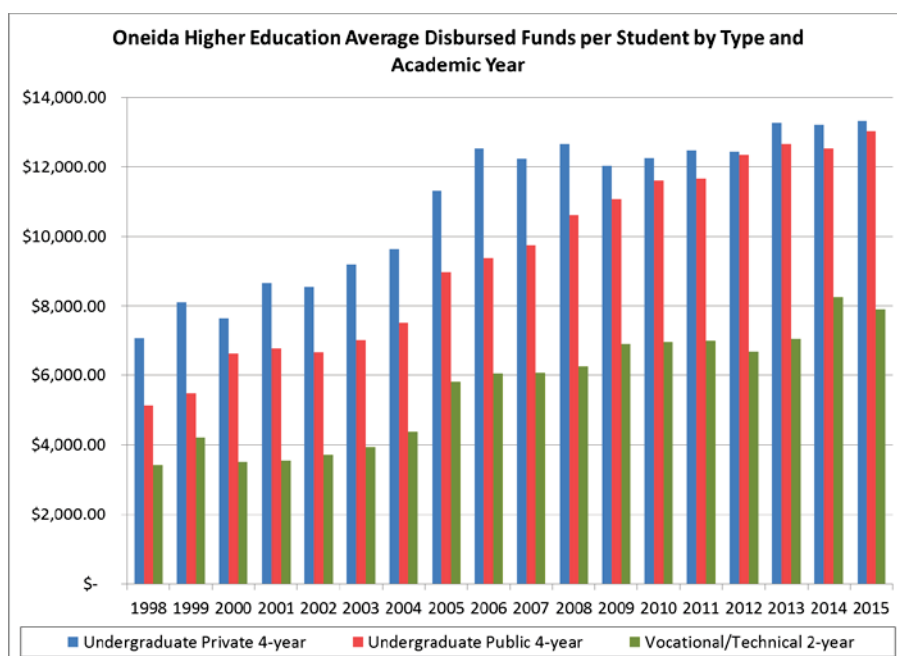
Not only has the number of students utilizing the higher education funds gone up, but so has the average disbursed funds per student. The average disbursed funds have more than doubled from 1998 to 2015. The average disbursed funds per student for each year is depicted in the following chart.



The average published tuition, fees, room, and board (TFRB) charges have also increased over time throughout the United States. The average cost for an undergraduate Private 4-year institution has the most noticeable change as it approached \$40,000 in 2013. The average cost for an undergraduate Public 4-year institution was close to \$18,000 in 2013 and a Public 2-year institution was over \$10,000. The following chart shows the average change in cost from the “Trends in Higher Education Series” at [www.collegeboard.com](http://www.collegeboard.com).

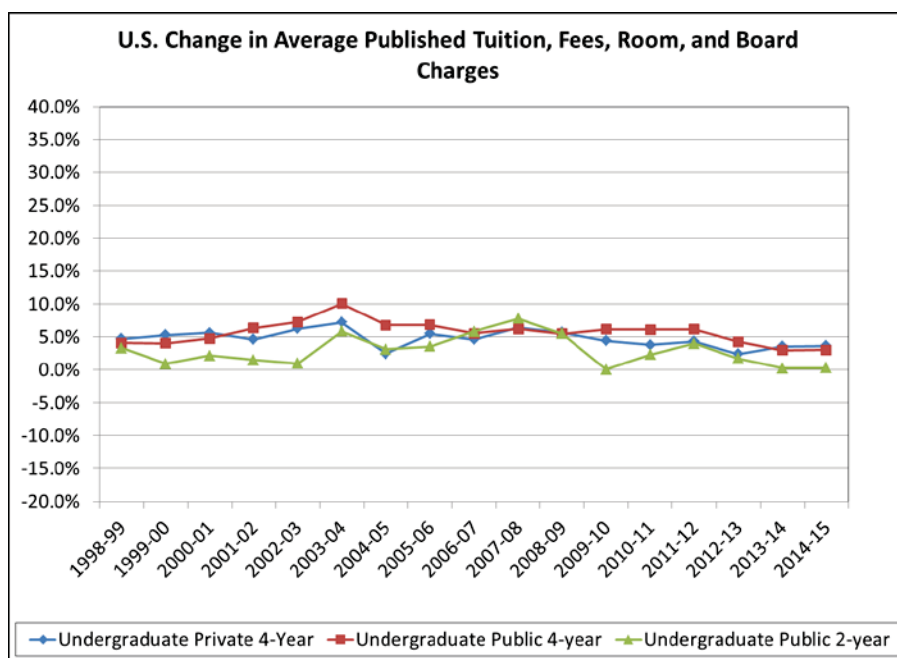


The U.S. costs can be compared to the average disbursed funds per student utilizing the Oneida Higher Education funds. In 2013, the average disbursed funds for undergraduate Private 4-year institutions were just over \$13,000, and just under \$13,000 for undergraduate Public 4-year institutions. The average disbursed funds in 2013 for vocational/technical 2-year institutions were just over \$7,000. These average disbursed funds are shown in the chart below.

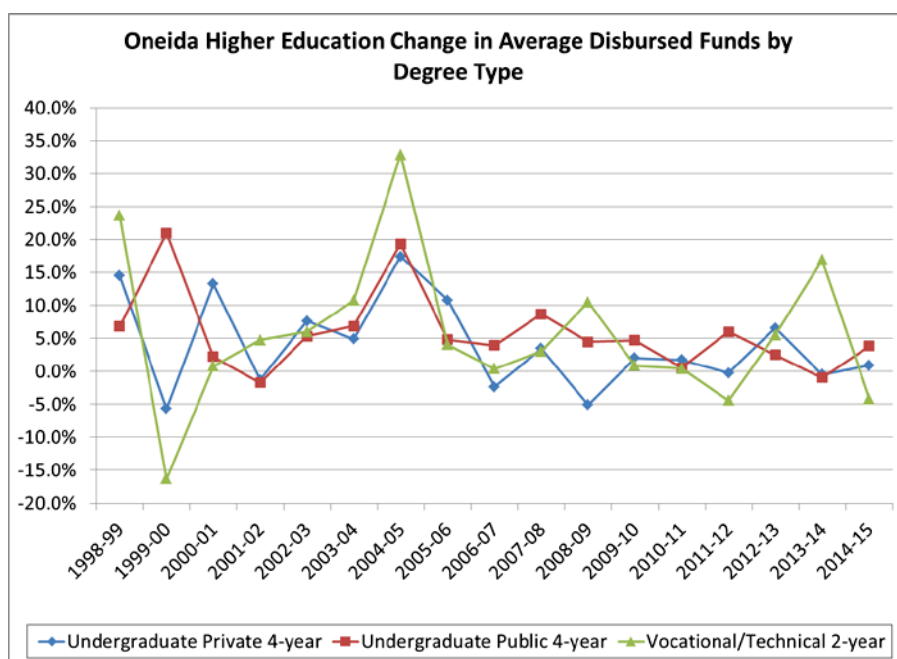


#### IV. Change in Average Tuition, Fees, Room, and Board Charges

The U.S.'s average cost is higher for all types of institutions with a substantial difference between the average costs of private 4-year institutions. Since there is such a difference in the cost, a comparison of the rate changes may be more beneficial.

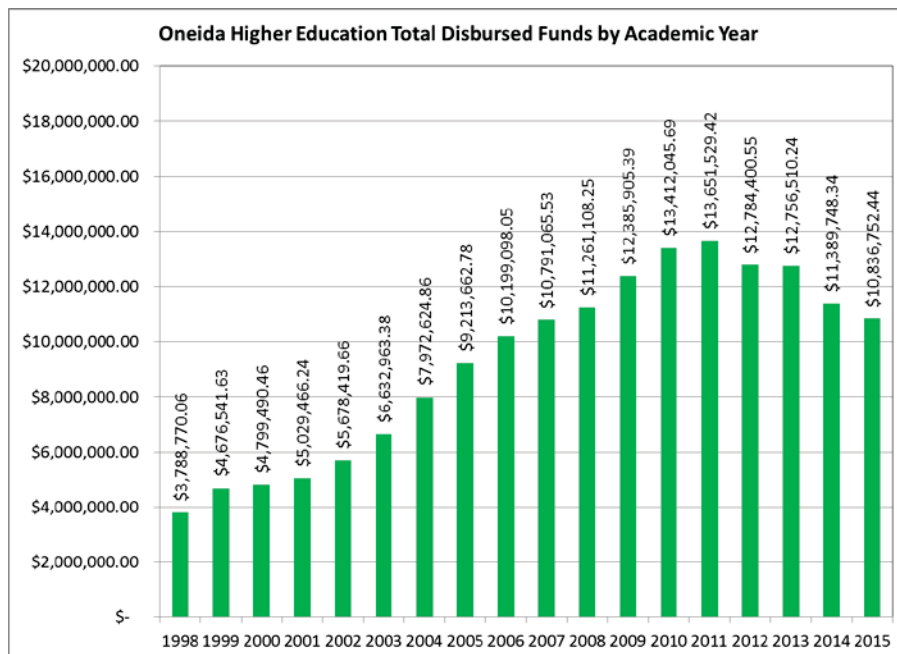


Oneida's change in disbursed Higher Education funds was between 2.5% and 6.6% for each type of institution. The U.S. change in cost from 2014 to 2015 was between -5% and 5% for each type of institution.



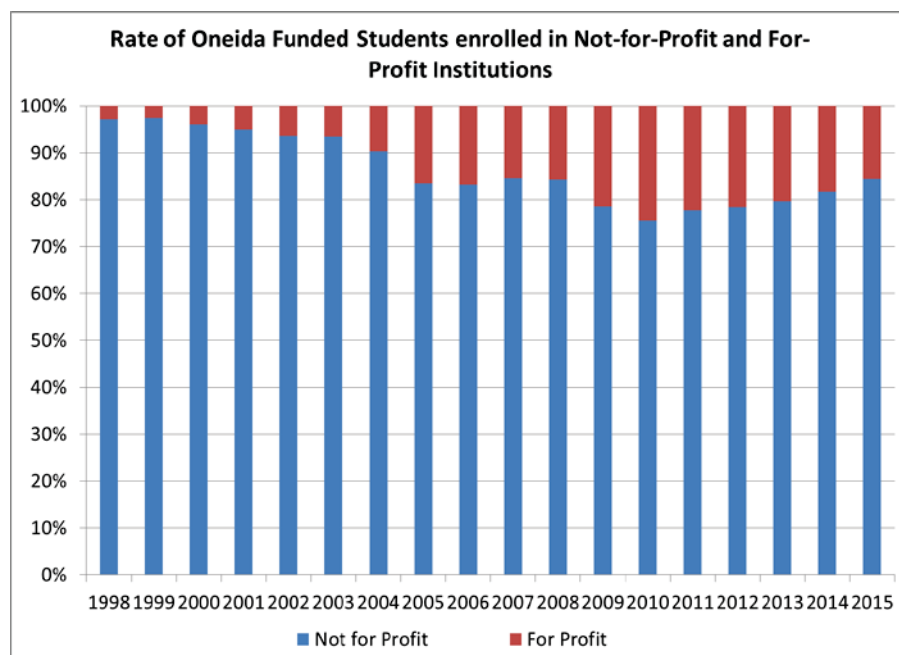


The total disbursed funds from Oneida Higher Education continued to climb until the 2011 academic year, but then dropped in the following years. The overall disbursed funds per year for the Higher Education Department are shown in the chart below.

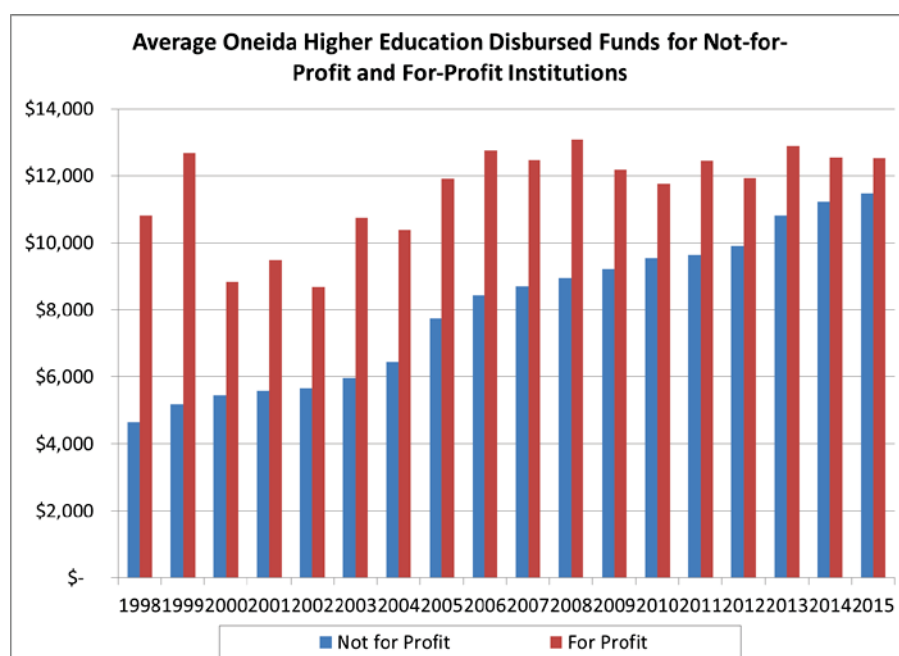


## V. Type of Institutions

In addition to Private and Public institutions, private institutions can also be separated into for-profit and not-for-profit. The rate of Oneida students who have enrolled in for-profit institutions has increased significantly from 1998 to 2015. The following chart details the rate of Oneida students at not-for-profit and for-profit institutions.

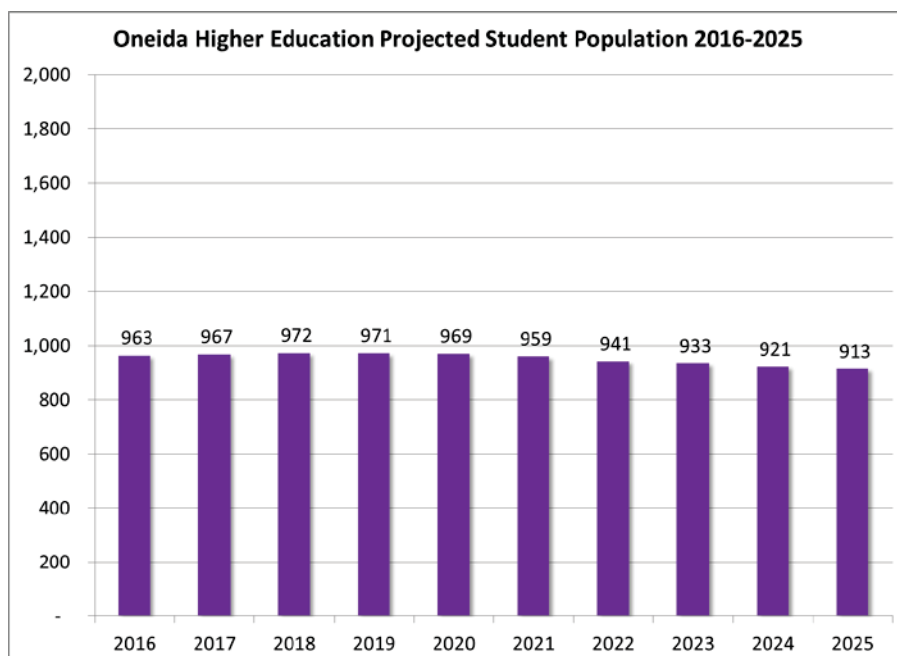


The Oneida Higher Education average disbursed funds for not-for-profit institutions has gradually increased from 1998 to 2013, starting at \$4,638 and growing to \$11,476. The averaged disbursed funds paid to for-profit institutions has varied, but has always been over \$8,400 and was \$12,521 in the 2015 academic year. The chart below shows the difference in disbursed funds to not-for-profit and for-profit institutions.

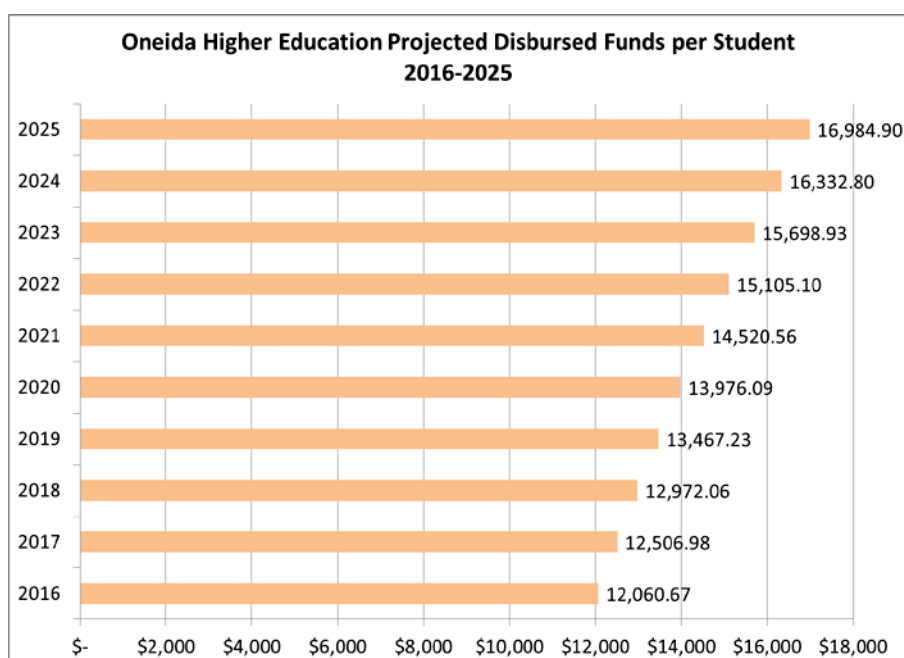


## VI. Projected Utilization

As was shown on the first page, the number of tribal members eligible for funds will only slightly increase. The percentage of the enrolled population that utilizes the Higher Education funds was expected to slightly increase, but that has not occurred. The rate has dropped down to under 7% of the eligible population. The rate of high school graduates attending college has not made up for the reduction due to the aging population. This has resulted in lower projections from previous reports. The projected utilization is shown in the chart below.

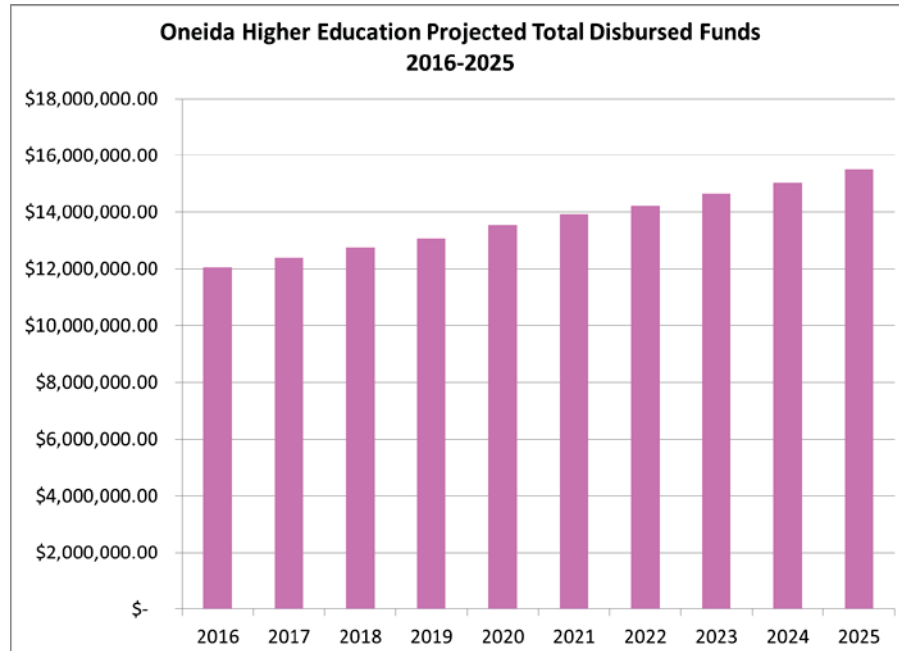


The average disbursed funds from Oneida Higher Education are expected to continue to grow each year. The average disbursed funds per student are shown in the following chart.





The average disbursed funds per student are expected to increase. The trend is quite linear, but will eventually level off due to the maximum funding amount of \$20,000 for undergraduate students, \$25,000 for graduate/professional students, and \$30,000 for doctoral students. These projections are based on that factor. The overall growth in the total cost for Oneida Higher Education is shown in the chart below.



The total projected costs per year for the Higher Education Department is listed below in the table. Note that the average cost per year met the \$25,000 limit for Graduate/Professional degrees from 2020 forward and \$30,000 limit for Doctoral degrees from 2023 forward. These limits were established with the GTC resolution 1-30-10-A.

Projected Total Higher Education Costs	
2016	\$ 12,041,977.16
2017	\$ 12,379,678.46
2018	\$ 12,758,354.46
2019	\$ 13,079,450.32
2020	\$ 13,536,428.61
2021	\$ 13,927,043.11
2022	\$ 14,216,671.44
2023	\$ 14,651,977.52
2024	\$ 15,035,880.23
2025	\$ 15,508,578.68

The Oneida Higher Education costs are projected to grow over the next 10 years. It is necessary for the organization to prepare for this increase in cost.

JO ANNE HOUSE, PhD  
CHIEF COUNSEL  
JAMES R. BITTORF  
DEPUTY CHIEF COUNSEL  
REBECCA M. WEBSTER, PhD  
SENIOR STAFF ATTORNEY

# ONEIDA LAW OFFICE

N7210 SEMINARY ROAD  
P.O. BOX 109  
ONEIDA, WISCONSIN 54155

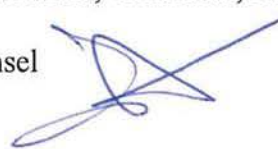
(920) 869-4327

FAX (920) 869-4065

PATRICIA M. STEVENS GARVEY  
KELLY M. MCANDREWS  
MICHELLE L. MAYS  
ROBERT W. ORCUTT

## MEMORANDUM

**TO:** Brandon Stevens, Council Member, Chairman, Legislative Operating Committee

**FROM:** Jo Anne House, Chief Counsel 

**DATE:** January 25, 2016

**SUBJECT:** Opinion – Oneida Higher Education Scholarship Law

---

You have requested a legal opinion regarding “whether the [Oneida Higher Education] Law conflicts the General Tribal Council resolutions related to the Higher Education Scholarship[.]” *LOC meeting minutes, p.6, January 6, 2016.*

### Background

I have set forth below summaries of the primary actions taken by the General Tribal Council and Oneida Business Committee. I have also included motions as well as the adopted resolutions.

*Resolution # GTC-08-12-96-A, Sets Original Scholarship Requirements*

1. Full or part time
2. Accredited vocational program, college or university
3. Up to \$20,000 per year
4. No parental income requirements
5. GPA of 2.0 undergrad/3.0 graduate
6. Fill out FAFSA
7. Submit progress reports

*Resolution # GTC-12-7-96-C, Amends/Clarifies Requirements*

1. Reduced scholarship to up to \$10,000 for school year 1996/7
2. Part time is 1-5 credits and receive tuition/fees and book reimbursement
3. Full time is 6+ credits and receive tuition/fees and book reimbursement if found ineligible to receive financial aid because of parental income
4. Complete academic/career plans
5. Prohibit multiple or continuous degrees
6. Full time eligibility time periods 2.5 associate/5 bachelor/3 graduate/5 doctoral
7. Part time eligibility time period depending on academic/career plan
8. 2.0 GPA requirement with one semester grace period if falls below

*Resolution # BC-05-09-01-B, Emergency Amends Requirements Regarding GPA*

Emergency authorization to use of school GPA requirements for doctoral students

*Resolution # BC-10-24-01-K, Extends Emergency Amends Requirements*

Extend emergency authorization to use of school GPA requirements for doctoral students

*Resolution # BC-07-24-02-A,<sup>1</sup> Amendment to Education Resolution # GTC-08-12-96-A*

1. Allows Higher Education Department to identify appropriate GPA requirements for doctoral candidates
2. “[T]he Oneida Business Committee is hereby responsible for enacting future amendments relating to the scholarships, with notification provided to the General Tribal Council, at the first opportunity, either at the Annual or Semi-Annual Meeting, whichever is sooner.”

*August 16, 2008, Danforth Petition – Increase Scholarship*

Request to increase scholarship amount not approved

*July 6, 2009, Oneida Business Committee Recommends Changes to Scholarship*

1. Formula based funding
2. Tiered funding to begin in FY2010 at \$20,000/\$25,000/\$30,000
3. Create endowment

*Resolution # GTC-01-30-10-A, Tiered Funding*

1. Implements tiered funding.
2. Establishes Higher Education Endowment Fund
3. “[T]he requirements of GTC-8-12-96A, and the subsequent amendments to that resolution, shall remain in effect.”

### Analysis

The resolutions give specific requirements for the scholarship program. Those requirements have been relaxed from time to time, but still have some direction. For example, the amount of funding continues to be non-need based (i.e. no analysis of ability to be paid), however the amount of the scholarship continues to be “up to” a specified amount and is now also subject to the educational institutions needs funding estimates. A second example is the grade point average requirement no longer set specifically at the 2.0/3.0 requirements, the doctoral candidate grade point average at 3.0 is now based on the educational institution requirement.

*Authority to Make Amendments*

In July, 2002, the General Tribal Council failed to meet a quorum for the Semi-Annual meeting. As a result, and consistent with the actions of the previous General Tribal Council agendas, the agenda was completed at a special Oneida Business Committee meeting on July 24, 2002. Resolution # BC-07-24-02-A authorized the Oneida Business Committee to make “future amendments” to the program with notice to the General Tribal Council. This authorization has been reaffirmed by resolution # GTC-01-30-10-A.

As a result, it would be my opinion that the Oneida Business Committee has the authority to make amendments to the law. Those amendments would need to be noticed to the General Tribal Council at an Annual or Semi-Annual meeting. It is presumed that the amendments would be effective upon adoption, not after notice, since no action is required by the General Tribal Council regarding Oneida Business Committee enacted amendments.

---

<sup>1</sup> This was Oneida Business Committee action to conclude the 2002 Semi-Annual General Tribal Council meeting which did not have a quorum.



#### *Type of Amendments*

The previous resolutions and the 2002 authorization delegated to the Oneida Business Committee do not identify the types of amendments that were authorized. A review of the General Tribal Council action indicates the adoption of specific requirements for the scholarship as well as a desire to limit what types of requirements or limitations can be placed on the scholarship program. The previous actions taken by the Oneida Business Committee and General Tribal Council have generally been taken to further define existing criteria. *See Resolution # GTC-01-30-10-A which reaffirmed all prior directives.*

#### *Law*

A review of the law identifies that the requirements are consistent with the existing scholarship program and the prior resolutions. The law appears to expand the opportunity to receive an educational scholarship which would not be in violation of the previous actions of the General Tribal Council.

### **Conclusion**

The law appears to conform to the prior General Tribal Council action and is within the delegated authority in the 2002 Oneida Business Committee and 2010 General Tribal Council actions.

If you have further questions, please contact me.



# Higher Education Student Handbook



*Oneida Tribe  
of Indians of Wisconsin*



# Oneida Higher Education Scholarship

## **Office Hours**

Monday through Friday

8:00 a.m. – 4:30 p.m.

## **Telephone**

920-869-4033

1-800-236-2214 ext. 4033

## **Fax**

920-869-4039

## **Office Email**

[highered@oneidanation.org](mailto:highered@oneidanation.org)

## **Web Page**

[www.oneida-nsn.gov/highered](http://www.oneida-nsn.gov/highered)

## **Mailing Address**

Oneida Higher Education Office

P O Box 365

Oneida, WI 54155

## **Location**

Norbert Hill Center (North wing)

N7210 Seminary Rd

Oneida WI 54155



The Oneida Higher Education Applications and forms can be found on our web page,

[www.oneida-nsn.gov/highered](http://www.oneida-nsn.gov/highered)



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## **Article 1: INTRODUCTION**

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The Oneida Higher Education Office acts as a financial aid office, processing the Oneida Higher Education Scholarship and assisting applicants in completing the Free Application for Federal Student Aid (FAFSA).

The Scholarship is determined by a combination of the applicant's FAFSA, the Financial Needs Analysis and the Oneida Higher Education Scholarship funding guidelines. The Scholarship is not intended to replace annual income or meet total personal or household expenses.

Applicants are advised not to start school/classes until they receive the Oneida Higher Education Scholarship Award Letter. Applicants who choose to start prior to the receipt of the Oneida award letter are responsible for any incurred costs.

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## Article 2: DEFINITIONS

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2. This Article provides the definitions of words and phrases used within this Handbook. All words not defined in this Article must be used in their ordinary and everyday sense.
- (a) “Accredited vocational program, college or university” means either any United States educational institution officially accredited by an agency recognized by the United States Department of Education or any Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs.
  - (b) “Financial Needs Analysis” is a form that reports a school’s cost of attendance and eligible Financial Aid awards and is sent by the Higher Education Office directly to the school’s financial aid office for completion.
  - (c) “GPA” means grade point average which is a measure of a student’s academic achievement arrived at by dividing the total grade points received by the total grade points attempted.
  - (d) “Tiered Funding” defined as progression within professions
  - (e) “Higher Education Office Review Panel” is a three (3) party review panel, which is to include two Higher Education Advisors, and either the Higher Education Office Manager or the Area Manager.
  - (f) “Official Transcript” Official Transcript means an official report of a student’s grades sent directly from the educational institution via mail, and certified as official or from the educational institution’s e-script vendor.



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**Article 3: STUDENT RESPONSIBILITIES**

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3. Persons participating in the Oneida Higher Education Scholarship program are responsible for the following:
- (a) All costs incurred prior to attending school, which may include, but are not limited to: Admission fees, housing deposits, transportation to the school, and other related fees.
  - (b) Abiding by and complying with the eligibility and requirement provisions contained in the Oneida Higher Education Scholarship (Law) and this Handbook.
  - (c) Following up with the Higher Education Office and the school's financial aid office as necessary to ensure all required documents are completed and/or received.
  - (d) If attending more than one institution during the same academic term, submitting a copy of an approved consortium agreement.
  - (e) Upon graduation, submitting a copy of the diploma earned and requesting a final Official Transcript to be sent to the Higher Education Office.
  - (f) Notifying the Higher Education Office of any applicable changes, including, but not limited to, a change of school, mailing address, phone number, email address, degree program, the number of college credits, or financial aid.

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#### Article 4: APPLICATION REQUIREMENTS

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4-1. In order to meet the requirements for a Scholarship to be awarded:

(a) Applicants must file the Free Application for Federal Student Aid (FAFSA), unless the applicant will be taking less than six (6) credits or will be attending a Canadian education institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language programs. The FAFSA must be completed annually and may be done at [www.fafsa.gov](http://www.fafsa.gov).

(b) Applicants shall ensure that a complete student file is submitted to the Higher Education Office. A complete student file consists of the following:

(1) A copy of the college/university acceptance/admission letter for all applicants that are a new students, re-entering students (returning to school after taking one (1) or more years off) or transfer students;

(2) An [Oneida Higher Education Application](#) and the [Participation Acknowledgment and Agreement](#) (which must be submitted each academic year);

(3) An [Oneida Higher Education Academic Plan](#), (which must be submitted for each term of funding);

(4) An Official Transcript, (which must be provided to the Higher Education Office at the close of each term of funding); and

(A) Official Transcript means an official report of a student's grades sent directly from the educational institution via mail, and certified as official or from the educational institution's e-script vendor.

(B) Applicants are responsible for any applicable Official Transcript fees.

(5) A Financial Need Analysis, which is a form that reports a school's cost of attendance and eligible Financial Aid awards and is sent by the Higher Education Office directly to the school's financial aid office for completion.

4-2. To ensure fastest possible distribution of scholarship funds, applicants should submit their Oneida Higher Education Application by the following priority dates:

- (a) For the Fall Term – By April 15<sup>th</sup>
- (b) For the Spring Term – By October 1<sup>st</sup>
- (c) For the Summer Term – By May 1<sup>st</sup>



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### Article 5: SCHOLARSHIP ELIGIBILITY

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5. In order to be eligible for a Scholarship Award, applicants must:

(a) Be an enrolled Oneida Tribal Member.

(b) Be accepted into an Accredited vocational program, college or university, meaning either any United States educational institution officially accredited by an agency recognized by the United States Department of Education or any Canadian educational institution permitted to grant degrees pursuant to Canadian provincial government that provides Oneida specific culture and/or language based programs..

(c) Be in good standing, according to [Article 10: GRADING REQUIREMENTS – GOOD STANDING](#).

(d) Be seeking the Scholarship for semesters/terms which have not already ended or been completed.

(e) Be seeking the Scholarship for a degree that is higher than the funding tier of a previously earned degree based on the funding tiers under Article 7: LENGTH OF FUNDING ELIGIBILITY of this Handbook or Section 401.6-2 of the Oneida Higher Education Scholarship (Law).

(1) An applicant seeking a degree that is in the same funding tier or lower as another degree being pursued concurrently and within the funding period allotted for the degree at the higher funding tier is eligible.

(2) For example scenarios explaining the requirements of Article 5(e), please see

(3) Addendum 01: EXAMPLES OF THE ARTICLE 5(e) REQUIREMENT.

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**Article 6: INELIGIBILITY FACTORS**

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6-1. The Scholarship is not available under the following circumstances:

- (a) For courses required to update/maintain a license.
- (b) For post-degree certificates, workshops, seminars, conferences, or continuing education credits/units.
- (c) For post-secondary required pre-requisite credited classes.
- (d) For post-graduate preparation and admission exams (e.g. GRE, LSAT, MCAT, GMAT).
- (e) For post-secondary preparatory programs/courses.

**6-2.** Oneida Trust Scholarship. The Oneida Trust Scholarship may be available to cover the costs associated with the ineligible factors contained in Article 6-1(d)-(f). For more information on the Oneida Trust Scholarship, please see

**Addendum 02: ONEIDA TRUST SCHOLARSHIP.**

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### Article 7: LENGTH OF FUNDING ELIGIBILITY

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7. Scholarship awards are subject to the following length of funding and maximum funding requirements:

Tier Level	Achievement Sought	Length of Eligibility*	Maximum Funding**
1 <sup>st</sup>	Vocational Degree/Associate Degree/Certificate	2.5 years	\$20,000
2 <sup>nd</sup>	Undergraduate Degree	5 years	\$20,000
3 <sup>rd</sup>	Graduate Degree	3 years	\$25,000
4 <sup>th</sup>	Doctoral Degree	5 years	\$30,000

\*Terms for which applicants are funded for less than six (6) credits may not be counted against the length of funding requirements.

\*\*Maximum funding caps are per academic school year.

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### Article 8: FUNDING PROCESS

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- 8-1. Funding is based on an August 1<sup>st</sup> - July 31<sup>st</sup> academic school year.
- 8-2. To be considered for the Oneida Higher Education Scholarship applicants **must have a complete student file prior to the end of the term for which funding is sought**. The Higher Education Office shall review an applicant's file and begin the award process upon its receipt of a complete student file.
- 8-3. Upon award, the Higher Education Office shall send award letters listing the Scholarship amount(s) to the applicant and the applicant's school's financial aid office.
- 8-4. The Higher Education Office shall send Scholarship funds directly to the school for disbursement. Applicants must abide by the school's policies regarding the release of financial aid funds to students.



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## Article 9: SCHOLARSHIP AWARD DETERMINATION

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9. Scholarship award determinations are based on the following:

(a)

Student Status	Credits Per Term (Estimated)	Scholarship Funding
<b>Full-Time:</b> Vocational/Undergraduate Graduate/Post-graduate	12 credits 9 credits	Tuition/fees, required books and room/board.*
Student Status	Credits Per Term (Estimated)	Scholarship Funding
<b>Part-Time:</b> Vocational/Undergraduate Graduate/Post-graduate	6-11 credits 6-8 credits	Tuition/fees and required books.*
<b>Less than Part-time</b>	1-5 credits	Tuition/fees and required books.
<b>Cosmetology</b>	Required hours per student contract	Tuition/fees and required books/supplies.*

\*The costs of attendance will be based on the applicant's individual financial need as determined by the FAFSA and the Financial Needs Analysis.

(b) Funding for study abroad that is a requirement to graduate will be coordinated with the school's financial aid office to include the cost of tuition, room & board and transportation. Personal and miscellaneous expenses are the applicant's responsibility. Funding for non-required study abroad college credit(s) will consist of tuition/fees and required books.

(c) Applicants taking classes 100% on-line are eligible for tuition/fees and required books based on the applicant's individual financial need as determined by the FAFSA and the Financial Needs Analysis. Other cost of attendance items will be based on the standard online budget developed by the Higher Education Office.

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### Article 10: GRADING REQUIREMENTS – GOOD STANDING

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10. In order to meet the grading requirements and be in good standing as required by Article 5(c) students must:

(a) Meet the following Oneida GPA requirements:

Degree	Academic Requirements*
Vocational/Associate/Certificate	2.0 GPA
Undergraduate	2.0 GPA
Graduate	3.0 GPA
Doctorate	3.0 GPA
Cosmetology (Technical Diploma)	(Monthly requirement) Attendance = min. 90% Written = min. 80% Skills/Practical = min. 80%

\* Academic Requirements based on a 4.0 grading scale.

(1) Courses that do not have associated grades or GPAs, for example when an applicant receives an incomplete, withdrawal or unsatisfactory for a course, the Higher Education Office will consider the course to have been failed.

(2) Term GPAs must always be calculated based on the actual number of credits funded.

- (b) Complete the total number of credits within the semester/term for which the Scholarship was provided based on an Official Transcript, which is an official report of a student's grades sent either directly from the educational institution, via mail, e-mail and certified as official or from the educational institution's e-script vendor.
- (c) Meet the standards of the applicant's school's financial aid academic good standing requirements, including GPA. Doctoral students will be considered to have met the requirements of this Article 10(a) so long as they have met the school's financial aid academic good standing requirements, including GPA.

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**Article 11: PROBATION AND SUSPENSION GUIDELINES**

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11-1. *Probation Status.* Applicants on probation remain eligible to receive a Scholarship award for the following term.

(a) While on probation:

(1) Applicants are strongly encouraged to meet with their school's advisors to develop a plan for academic success;

(2) Applicants must complete all the credits for which they receive the Scholarship, and must meet the academic requirements for good standing provided in Article 10; and

(3) At the close of the term for which an applicant is on probation, the applicant must request an Official Transcript be sent to the Higher Education Office to determine future funding status.

(b) The Higher Education Office shall place all applicants that fail to meet the probation requirements on suspension status.

11-2. *Suspension Status.* Applicants on suspension are not eligible to receive a Scholarship award.

(a) In order to have eligibility for the Higher Education Scholarship program reinstated, an applicant on suspension must:

(1) Make-up the number of credits that was incomplete during the funded term of academic suspension at the same academic level at an accredited post-secondary Institution and must meet the academic requirements for good standing provided in Article 10; or

(2) Repay the amount of the Scholarship for those incomplete credits that were funded during the term for which they were placed on suspension. Applicants who withdraw from school or do not earn any credits must repay the entire amount of the Scholarship.

11-3. The Higher Education Office shall place applicants on probation/suspension in accordance with the following, provided an applicant may be placed on probation/suspension for any single reason or any combination of the reasons:



	PROBATION	SUSPENSION
<b>Failure to Meet GPA Requirements</b>	An undergraduate/technical applicant earning a GPA between 1.0 and 1.9.	An undergraduate/technical applicant earning a GPA below 1.0.
	A graduate applicant earning a GPA between 2.0 and 2.9.	A graduate applicant earning a GPA below 2.0.
	A doctoral applicant earning a GPA between 2.0 and 2.9. *	A doctoral applicant earning a GPA below 2.0.*
	A cosmetology applicant with a monthly Official Transcript does not meet any one (1) of the academic requirements: (attendance 90%, written 80%, practical 80%).	A cosmetology applicant with a monthly Official Transcript does not meet any two (2) of the academic requirements: (attendance 90%, written 80%, practical 80%).
<b>Failure to Complete All Funded Credits</b>	An applicant who does not complete all of the credits for which he or she was funded.	An applicant who does not complete at least half of the credits for which they were funded.
<b>Other</b>	--	Failure to meet the requirements of probation.

\* Doctoral students will be considered to have met the requirements of Article 10(a) so long as they have met the school's financial aid academic good standing requirements, including GPA.

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## Article 12: APPEAL PROCESS

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12-1. An applicant may appeal a Scholarship decision made by the Higher Education Office, but only to the extent that the applicant is able to demonstrate that the Higher Education Office has failed to abide by the provision of the Oneida Higher Education Scholarship (Law) and/or this Handbook.

(a) An applicant may appeal a Scholarship decision made by the Higher Education Office by completing the appeal form available with the Higher Education Office and submitting it along with any required supporting documentation to the Higher Education Office, provided that, in order for the appeal to be considered, it must be filed within ten (10) business days of the date of the Higher Education Office's Scholarship decision.

(b) Upon receipt of an appeal the Higher Education Office Review Panel (a three (3) party review panel, which is to include two Higher Education Advisors, and either the Higher Education Office Manager or the Area Manager) shall review the merits of the appeal and, within (10) business days from the date the appeal was received, shall issue the applicant a written determination.

12-2. The applicant may file an appeal of the determination made by the Higher Education Office Review Panel to the Division Director.

(a) An applicant may appeal a determination made by the Higher Education Office Review Panel by completing the appeal form available with the Higher Education Office and submitting it along with any required supporting documentation to the Higher Education Office, provided that, in order for the second-level appeal to be considered, it must be filed within ten (10) business days of the date of the Higher Education Office Review Panel's written determination.

(b) Upon receipt of a second-level appeal, the Higher Education Office shall forward the appeal to the Division Director.

(c) Upon receipt of an appeal, the Division Director shall ensure the proper appeal process was followed, review the merits of the appeal and, within (10) business days from the date the appeal was received, issue the applicant a written determination with a copy provided to the Higher Education Office. Should the Division Director receive an appeal that did not follow the appeal process; the Division Director shall advise the applicant to follow the appeal process as outlined.

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### Article 13: EXCEPTION PROCESS

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13-1. Exceptions may be offered under narrow grounds only for applicants facing extenuating circumstances whom are able to demonstrate that based on the totality of the circumstances the applicant will likely succeed in achieving the accomplishment sought either within the exception period and/or despite the extenuating circumstances that have made pursuing an exception necessary. The Higher Education Office may only grant the available exceptions provided in Section 401.7-2 of the Oneida Higher Education Scholarship (Law).

(a) The available exceptions are as follows:

(1) In regards to eligibility:

(A) The requirements to be in good standing as provided in Section 401.5-1(b) of the Law and Article 5(c) of this Handbook; and

(B) The requirement that the Scholarship be for a degree that is categorized in a funding tier that is higher than the funding of a previously earned degree as provided in Section 401.5-1(e) of the Law and Article 5(e) of this Handbook.

(2) In regards to application requirements, the requirement that a FAFSA be filed as provided in Section 401.5-2(a) of the Law and Article 4-1(a) of this Handbook.

(3) Length of funding as provided in Section 401.6-1 of the Law and Article 7: LENGTH OF FUNDING ELIGIBILITY of this Handbook.

13-2. An applicant may only request an exception as provided in Article 13-1.

(a) An applicant may request an exception to a Scholarship decision made by the Higher Education Office by completing the exception form available with the Higher Education Office and submitting it along with any required supporting documentation to include a written explanation of the extenuating circumstances that serve as the basis for requesting the exception to the Higher Education Office, provided that, in order for the exception to be considered, it must be filed within ten (10) business days of the date of the Higher Education Office's Scholarship decision.

(b) Upon receipt of an exception the Higher Education Office Review Panel (a three (3) party review panel, which is to include two Higher Education Advisors, and either the Higher Education Office Manager or the Area Manager) shall review the merits of the exception and, within (10) business days from the date the exception was received, shall issue the applicant a written determination.



13-3 An applicant may file a request for reconsideration of an exception to the decision made by the Higher Education Office Review Panel to the Division Director by completing the exception form available with the Higher Education Office, noting that the request is for a reconsideration and submitting it along with any required supporting documentation to the Higher Education Office, provided that, in order for a request for reconsideration of an exception to be considered, it must be filed within ten (10) business days of the date of the Higher Education Office Review Panel's written determination.

(a) Upon receipt of the request for reconsideration of an exception, the Higher Education Office shall forward the exception to the Division Director.

(b) Upon receipt of a request for reconsideration of the exception, the Division Director shall ensure the proper exception process was followed, review the merits of the exception and, within (10) business days from the date the request for reconsideration of the exception was received, issue the applicant a written determination with a copy provided to the Higher Education Office. Should the Division Director receive a request for reconsideration of an exception that did not follow the exception process; the Division Director shall advise the applicant to follow the exception process as outlined.

## OTHER INFORMATION

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### FERPA – CONSENT TO RELEASE STUDENT INFORMATION

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College students are allowed to determine who will receive information about them. While parents (or spouses) understandably have an interest in a student's academic progress, they are not automatically granted access; students must complete the Family Educational Rights and Privacy Act "[FERPA](#)" form in order for another individual to access their Oneida Higher Education records. This requirement is in compliance with the Privacy Act of 1974 (Public Law 93-579), the FERPA, which protects the privacy of students' educational records. The Act requires students to provide consent before their records may be accessed by third parties.

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### FUNDING COLLEGE CREDIT FOR PRIOR LEARNING/EXPERIENCE

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Applicants may have the opportunity to earn academic credit for college level knowledge and competency outside the classroom, for which credit has not already been earned. These types of credit opportunities are coordinated through the applicant's individual school.

Applicants may apply for tuition reimbursement; applicants must submit their original receipts and documentation of their successful credit approval. Such applications are subject to the requirements contained in Article 5 and must be submitted to the Higher Education Office in the same academic school year as the credits were awarded by the school.

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### STUDENT LOAN DEFAULT OPTIONS

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Applicants who are in student loan default may have options available to be reconsidered for federal financial aid and should contact the loan lender to discuss the potential availability of such options. For additional information regarding student loan issues, including, but not limited to loan repayment, consolidation, default and disputes, please go to [www.ed.gov](http://www.ed.gov).

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Adopted:

BC-\_\_\_\_\_

References:

Oneida Higher Education Scholarship (Law)

Trust Scholarship Policy and Procedure (Amended-BC 12-11-13E)

### Addendum 01: EXAMPLES OF THE ARTICLE 5(e) REQUIREMENT

This Addendum 01 contains examples of potential scenarios where a student is seeking multiple degrees and the eligibility results based on the requirement in Article 5(e) that applicants must be seeking the Scholarship for a degree that is categorized in a funding tier that is higher than the funding tier of a previously earned degree based on the following funding tiers:

<b>Tier Level</b>	<b>Achievement Sought</b>	<b>Length of Eligibility*</b>	<b>Maximum Funding**</b>
1 <sup>st</sup>	Vocational Degree/Associate Degree/Certificate	2.5 years	\$20,000
2 <sup>nd</sup>	Undergraduate Degree	5 years	\$20,000
3 <sup>rd</sup>	Graduate Degree	3 years	\$25,000
4 <sup>th</sup>	Doctoral Degree	5 years	\$30,000

1. The following are examples of funding eligibility for degrees sought in separate funding tiers:

- (a) A student may be enrolled in a doctorate program, 4th tier, and a master's program, 3rd tier, at the same time and would be subject to the 4th tier maximums for length of eligibility and funding because the degrees are being earned at the same time and the doctorate is in the higher tier.
- (b) A student may complete a master's program based on the 3rd tier maximums for length of eligibility and funding and then, once complete, may complete a doctorate program based on the 4th tier maximums for length of eligibility and funding because the doctorate is in a higher funding tier than the previously earned master's degree.
- (c) A student may not complete a doctorate program based on the 4th tier maximums for length of eligibility and funding and then pursue a master's degree based on the 3rd tier maximums for length of eligibility and funding because the master's degree is in a lower funding tier than the previously earned doctorate degree.



2. The following are examples of funding eligibility for multiple achievements sought in the 1<sup>st</sup> tier funding of Certificates, Vocational degrees and associate degrees:

(a) If an applicant previously received a Scholarship to attend a one (1) year dental assistant program and completed that program with a vocational degree, he or she may still be awarded a Scholarship to pursue an associate's degree because while it is technically in the same funding tier, it is a more advanced degree than the previously earned vocational degree. It is important to note that while the student may still pursue the associate's degree, the scholarship award remains subject to the 1st tier's maximum length of funding of 2.5 years. Based on this, the applicant is eligible for the scholarship award and has 1.5 years remaining to complete the associate's degree.

(b) If the applicant previously received a scholarship to participate in an associate program and earned an associate's degree, he or she would not be eligible for a Scholarship award to pursue a certificate or a vocational degree at a later time, regardless of any remaining length of eligibility because the associate's degree is the most advanced degree in the 1st tier and applicants are not eligible for funding of a degree that is less advanced than a previously earned degree.

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## **Addendum 02: ONEIDA TRUST SCHOLARSHIP**

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This Addendum 02 contains information related to the Oneida Trust Scholarship, which is a separate program from the Oneida Higher Education Scholarship program; it is governed by the Oneida Trust Scholarship Fund Policy and is administered by the Higher Education Office. Based on the Policy, the primary purpose of the Oneida Trust Scholarship “is to establish a trust resource for providing financial aid scholarships to assist eligible enrolled Oneida Tribal members in securing higher educational opportunities based on established criteria. This Fund is intended to provide assistance for higher education needs not being met by Tribal contribution [meaning the Oneida Higher Education Scholarship].”

1. Applicants seeking funding through the Oneida Trust Scholarship must be in good standing with the Oneida Higher Education Scholarship program and shall submit the Trust Scholarship Application and any required documents to the Higher Education Office.
2. In order to be eligible for an Oneida Trust Scholarship award, applicants must meet the following requirements:
  - (a) Be an enrolled Oneida Tribal Member;
  - (b) Be seeking post-secondary acceptance/opportunities through required pre-requisite accredited classes, post-graduate preparation preparatory/examinations, or related a preparatory courses;
  - (c) Complete the Oneida Trust Scholarship applications prior to the close of the class/term/examination; and
  - (d) Be in good standing with the Oneida Higher Education Scholarship program as defined by [Article 10: GRADING REQUIREMENTS – GOOD STANDING](#) of the Higher Education Student Handbook.

# February 2016

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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jan 31 - Feb 6	<b>Jan 31</b>	<b>Feb 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L 9:00am 2:00pm LOC Meeting (BC_Conf_Room) - D			
Feb 7 - 13	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
	9:00am 2:00pm LOC Meeting (BC_Conf_Room) - Douglass A. McIntyre						
Feb 14 - 20	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar	12:15pm 2:15pm Marriage Law Amendments/Garnishment Law Amendments (BC_Conf_Room) - D		
Feb 21 - 27	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
Feb 28 - Mar 5	<b>28</b>	<b>29</b>	<b>Mar 1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>



# March 2016

March 2016							April 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

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb 28 - Mar 5	<b>Feb 28</b>	<b>29</b>	<b>Mar 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			
Mar 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					
Mar 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			
Mar 20 - 26	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
Mar 27 - Apr 2	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>Apr 1</b>	<b>2</b>