



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room-2nd Floor Norbert Hill Center
January 4, 2017 9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be approved

1. December 21, 2016 LOC Meeting Minutes

III. Current Business

1. Oneida Nation Seal and Flag Law
2. Petition: Delgado-Panel of Educators & Retention of Kindergarten Students
3. Tribal Criminal Code, Tribal Traffic Code, and Tribal Public Peace Laws
4. Community Support Fund Amendments
5. Endowment Fund Amendments
6. Tobacco Law Amendments
7. Hunting, Fishing and Trapping Law Amendments
8. Per Capita Law Amendments
9. Budget Management and Control Law
10. Employment Law

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Public Meeting SOP

VII. Executive Session

1. Department of Public Works HVAC Contracts

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

December 21, 2016 9:01 a.m.

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

Note: Tehassi Hill was excused from the LOC Meeting for an appointment but arrived to the meeting at approximately 10:30 a.m. during the discussion on the Community Support Fund Amendments.

Excused: Jennifer Webster

Others Present: Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner, Krystal John, Jo Anne House, Rae Skenandore, Mike Debraska, Rhiannon R. Metoxen, Cathy Bachhuber, Trina Schuyler, Debra Powless, Tom Wilbur.

I. Call to Order and Approval of the Agenda

Brandon Stevens called the December 21, 2016 Legislative Operating Committee meeting to order at 9:01 a.m.

Motion by David P. Jordan to adopt the agenda moving the Endowment Fund Amendments (New Submission #1) to first on the agenda and Community Support Fund Amendments (Current Business #1) to last on the agenda; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. December 7, 2016 LOC Meeting Minutes

Motion by David P. Jordan to approve the December 7, 2016 LOC meeting minutes; seconded by Fawn Billie. Motion carried unanimously.

III. Current Business

1. Community Support Fund Amendments

Motion by David P. Jordan to make the appropriate changes to the Community Support Fund Amendments adoption packet and forward updated adoption packet to the LOC via e-poll for approval, and then forward the Community Support Fund adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried, with Tehassi Hill abstaining.

2. Oneida Seal and Flag Law

Motion by Fawn Billie to defer the Oneida Seal and Flag Law to the next LOC meeting on January 4, 2017; seconded by David P. Jordan. Motion carried unanimously.

3. Real Property Law Amendments

Motion by David P. Jordan to defer the Real Property Law Amendments to the second LOC meeting in January; seconded by Fawn Billie. Motion carried

Legislative Operating Committee Meeting Minutes of December 21, 2016

unanimously.

Motion by David P. Jordan for the LOC to send a memorandum to the Organizational Development Specialist asking to add an agenda item to the joint meeting between the Oneida Business Committee, Oneida Land Commission and Oneida Land Claims Commission on January 6, 2017, regarding the proposed policy statement in the Real Property Law Amendments; seconded by Fawn Billie. Motion carried unanimously.

IV. New Submissions

1. Endowment Fund Amendments

Motion by David P. Jordan to add Endowment Fund Amendments to the Active Files list as a high priority with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

2. Petition: Delgado-Panel of Educators and Retention of Kindergarteners

Motion by David P. Jordan to add Petition: Delgado-Panel of Educators and Retention of Kindergarteners to the Active Files list with Fawn Billie as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

Motion by Fawn Billie to approve the 45 Day Progress Report and forward to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

3. Landlord-Tenant Law Emergency Amendments

Motion by David P. Jordan to add the Landlord-Tenant Law Emergency Amendments to the Active Files list with David Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn

Motion by Fawn Billie to adjourn the December 21, 2016 Legislative Operating Committee meeting at 10:40 a.m.; seconded by Tehassi Hill. Motion carried unanimously.



Legislative Operating Committee January 4, 2017

Oneida Nation Seal and Flag

Submission Date: 4/22/15	Public Meeting: 10/01/2015, 12/01/16
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *The OBC requested that the LOC develop a flag code policy. ONVAC received complaints from non-Tribal members about how the Tribal Flag is displayed. ONVAC's concerns are there is no protocol for those who oversee flag responsibilities to follow, no one is identified as the person that has the authority to lower the flag to half-staff, what should the height and position of the Tribal Flag be compared to the US Flag, etc.*

- 4/22/15 OBC:** Motion by Jennifer Webster to request the Legislative Operating Committee to develop a flag code policy and consider adding it to the active files list, seconded by Lisa Summers. Motion carried unanimously
- 5/6/15 LOC:** Motion by Jennifer Webster to add the Tribal Flag Code to the active files list with herself as the sponsor and defer the Tribal Flag Code to a Legislative Operating Committee work meeting; seconded by Fawn Billie. Motion carried unanimously.
- 6/8/15:** Work Meeting held. Attendees included John Breuninger, Kerry Metoxen, Lynn Franzmeier, Candice Skenandore, Brandon Stevens, Tehassi Hill, Jenny Webster, Fawn Billie, Danelle Wilson, David Jordan, Apache Danforth, RC Metoxen.
- 6/30/15:** Work Meeting held. Attendees included John Breuninger, Douglass McIntyre, Candice Skenandore.
- 7/1/15 LOC:** Motion by David P. Jordan to accept the memorandum regarding the Flag Code update as FYI; seconded by Tehassi Hill. Motion carried unanimously.
- 7/24/15:** Work meeting held. Attendees included Jennifer Webster, David P. Jordan, Candice Skenandore, Douglass McIntyre.
- 8/5/15 LOC:** Motion by Tehassi Hill to defer the Oneida Flag Policy for a legislative analysis and a fiscal impact statement and bring back in two weeks; seconded by David P. Jordan. Motion carried unanimously.
- 8/19/15 LOC:** Motion by David P. Jordan to accept the legislative analysis, extend the financial impact statement, and direct the Legislative Reference Office to bring the Oneida Flag Code back to the next LOC meeting, to set a date for a Public Meeting, and to make the changes from "Oneida Nation" back to "Oneida Indian Tribe of Wisconsin"; seconded by Fawn Billie. Motion carried unanimously.
- 9/2/15 LOC:** Motion by Jennifer Webster to forward the current draft and analysis of the Oneida Flag Policy for a public meeting to be held on October 1, 2015; seconded by Fawn Billie. Motion carried unanimously.
- 10/1/15:** Public meeting held.
- 11/4/15 LOC:** Motion by Jennifer Webster to accept the public meeting comments and defer review to a work meeting on November 6; seconded by Tehassi Hill. Motion carried unanimously.
- 11/6/15:** Work meeting held. Attendees include: John Breuninger, Kerry Metoxen, Douglass McIntyre, Candice Skenandore, Jennifer Webster, David P. Jordan.
- 6/1/16 LOC:** Motion by Jennifer Webster to incorporate provisions for the Tribal seal into the current draft of the Flag Law and to bring back a draft to the June 15, 2016 LOC meeting so that

the LOC can determine whether to hold a second public meeting; seconded by Fawn Billie. Motion carried unanimously.

6/8/16 OBC: Motion by Lisa Summers to accept the branding update and seal color #2597, and that the final adjustments to the bear face shading be completed through Intergovernmental Affairs & Communications, seconded by Fawn Billie. Motion carried unanimously.

6/15/16 LOC: Motion by Tehassi Hill to defer the Oneida Seal and Flag Law to the Legislative Reference Office for an updated legislative analysis and to prepare for a second public meeting; seconded by Jennifer Webster. Motion carried unanimously.

8/2/16: Update meeting held. Attorney will review draft and return to analyst.

11/2/16LOC: Motion by Jennifer Webster to approve the Oneida Nation Seal & Flag law public meeting packet, and to direct the Legislative Reference Office to hold a second public meeting on December 1, 2016; seconded by Tehassi Hill. Motion carried unanimously.

Motion by Tehassi Hill to accept the legislative analysis for the Oneida Nation Seal and Flag law; seconded by Jennifer Webster. Motion carried unanimously.

12/1/16: Public meeting held.

12/21/16LOC: Motion by Fawn Billie to defer the Oneida Seal and Flag Law to the next LOC meeting on January 4, 2017; seconded by David P. Jordan. Motion carried unanimously.

Next Steps:

- Review public meeting comment memo and draft.
- Direct additional changes if necessary or approve the Oneida Nation Seal and Flag law adoption packet and forward to the Oneida Business Committee for consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office Staff Attorney
DATE: December 21, 2016
RE: Oneida Nation Seal and Flag Law: Public Meeting Comment Review

On December 1, 2016, a public meeting was held regarding a new proposed law: the Oneida Nation Seal and Flag Law. This law would:

- Recognize the official Oneida Nation Seal and describe where the seal should be used;
- Give authority to the Oneida Nation Secretary to govern the placement, maintenance and authorized use of the Oneida Nation seal;
- Recognize the importance of publically demonstrating the sovereign authority and jurisdiction of the Nation through the proper flying of the Oneida Flag;
- Require all current and future Oneida Nation-owned buildings on the reservation that fly the Flag to do so pursuant to this law;
- Identify who is responsible for Flag duties;
- List the requirements for how the Flag is to be displayed; and
- Explain how the Flag is to be respected.

There were no oral or written comments received during the public meeting on December 1, 2016, or during the public meeting comment period ending on December 8, 2016.



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING
Oneida Nation Seal and Flag Law
and
Real Property Law Amendments**

Business Committee Conference Room-2nd Floor Norbert Hill Center
December 1, 2016 12:15 p.m.

Present: Jennifer Webster, Jen Falck, Clorissa Santiago, Maureen Perkins, and Rae Skenandore.

Jennifer Webster: Greetings. The time is 12:15 p.m. and today's date is Thursday December 1, 2016. I will now call the public meeting for the Oneida Nation Seal and Flag law to order.

The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding these legislative proposals. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. Written comments may be submitted to the Tribal Secretary's Office or to the LOC Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business day on Thursday December 8, 2016.

In attendance from the LOC is, Jenny Webster. We will begin today's public meeting for the Oneida Nation Seal and Flag Law. This is a proposal that would; Recognize the official Oneida Nation Seal and describe where the seal should be used, Give authority to the Oneida Nation Secretary to govern the placement, maintenance and authorized use of the Oneida Nation Seal, Recognize the importance of publically demonstrating the sovereign authority and jurisdiction of the Nation through the proper flying of the Oneida Flag, Require all current and future Oneida Nation-owned buildings on the reservation that fly the Flag to do so pursuant to this law, Identify who is responsible for Flag duties, List the requirements for how the Flag is to be displayed, and Explain how the Flag is to be respected.

Is anybody here to speak on this first issue? –No Speakers-

12:20 Moving on to Real Property Law

The time is 12:20 p.m. and today's date is Thursday December 1, 2016. I will now call the public meeting for the Real Property Law amendments to order.

The LOC is hosting this public meeting to gather feedback from the community regarding these legislative proposals. All persons who wish to present oral testimony need to register and sign in the back of the room. Written comments may be submitted to the Tribal

Secretary's Office or to the LRO Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business day on Thursday December 8, 2016.

In attendance from the LOC is, Jenny Webster. We will begin today's public meeting for the Real Property Law Amendments. This is a proposal that would; remove hearing body authority from the Oneida Land Commission and transfer it to the Judiciary, Update the Probate Process, add Wisconsin state real estate education requirements for persons purchasing property on behalf of the nation, Provisions related to rental housing opportunities provided by the nation are moved to the Landlord Tenant law, Provisions related to mortgages and foreclosures within the nations programs are moved to the Mortgage and Foreclosure Law, Provisions related to termination or eviction from the nations leasing or rental programs are moved to the Evictions and Terminations Law.

Is there anyone here to speak on the Real Property Law Amendments? -No Speakers-


With nobody signed in and nobody here to speak on these issues we will close. The public meeting for the Real Property Law Amendments is now closed at 12:23 pm, written comments may be submitted until close of business day Thursday December 8th, 2016. The public meeting for the Oneida Nation Seal and Flag Law are now closed at 12:23 pm written comments may be submitted until close of business day Thursday December 8th, 2016. Thank you.

-End of Meeting-



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



TO: Oneida Business Committee
 FROM: Brandon Stevens, LOC Chairperson 
 DATE: December 28, 2016
 RE: Oneida Nation Seal and Flag Law

Please find the following attached backup documentation for your consideration of the Oneida Nation Seal and Flag Law:

1. Resolution: Oneida Nation Seal and Flag Law
2. Statement of Effect: Oneida Nation Seal and Flag Law
3. Oneida Nation Seal and Flag Law Legislative Analysis
4. Oneida Nation Seal and Flag Law
5. Oneida Nation Seal and Flag Law Fiscal Impact Statement

Overview

This Resolution adopts the proposed Oneida Nation Seal and Flag Law. The proposed law:

- Recognizes the official Oneida Nation Seal and describe where the seal should be used *[see 116.4]*.
- Provides the Oneida Nation brand logo for use on all documents not authorized to use the Oneida Nation Seal *[see 116.4-3]*.
- Delegates rulemaking authority to the Oneida Nation Secretary to govern the placement, maintenance and authorized use of the Oneida Nation Seal *[see 116.4-4]*.
- Recognizes the importance of publically demonstrating the sovereign authority and jurisdiction of the Nation through the proper flying of the Oneida flag.
- Requires all current and future Oneida Nation owned buildings on the Reservation that fly the flag to do so pursuant to this law *[see 116.5-2]*.
- Identifies who is responsible for Flag duties *[see 116.5-2(a)]*.
- Provides the requirements for how the flag is to be displayed *[see 116.6]*.
- Provides for how the flag is to be respected *[see 116.7]*.
- Enforces provisions of the Oneida Nation Seal and Flag Law by stating that employees found violating this law may be subject to discipline in accordance with the Nation's laws, rules and policies governing employment *[see 116.8]*.

In accordance with the Legislative Procedures Act, the first public meeting on the proposed law was held on October 1, 2015. On November 4, 2015, the LOC reviewed all comments received during the public comment period; and any changes made based on those comments have been incorporated into this draft. A second public meeting on the proposed law was held on December

1, 2016. No comments were received during the second public meeting comment period ending on December 8, 2016.

Requested Action

Approve the Resolution: Oneida Nation Seal and Flag Law.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____ Oneida Nation Seal and Flag Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation Seal and Flag Law (the “Law”) recognizes the authority of the Oneida Nation to exercise the fundamental right of sovereignty and self-determination by setting forth the official governmental Seal and Flag for the Oneida Nation, its use and who shall be responsible for safekeeping and authorizing its use; and
- WHEREAS,** the Oneida Nation Seal is a unique symbol reserved for official government use which signifies the Nation’s culture and sovereignty; and
- WHEREAS,** the Law sets forth which official government documents can use the seal, and provides the Oneida Nation brand logo for use on all other documents by all other Nation entities not authorized to use the seal; and
- WHEREAS,** the Law delegates rulemaking authority to the Oneida Nation Secretary to create rules that govern the placement, maintenance and authorized use of the seal; and
- WHEREAS,** the Oneida flag shall represent the jurisdiction and sovereignty of the Oneida Nation when flown; and
- WHEREAS,** the Law provides that all Oneida-owned buildings within the Reservation that currently possess flagpoles, stationary flagstuffs or other means to display a flag and those entities and Oneida-owned buildings that later establish the means to display a flag shall adhere to this law; and
- WHEREAS,** the Law provides details on how to properly display the flag, including details regarding location, time and occasions for display, conduct during hoisting, lowering or passing of the Oneida flag, position of the flag, manner of display, display of respect, and display off the Reservation; and
- WHEREAS,** the Law provides that no disrespect shall be shown to the Oneida flag, the United States flag, or the flags of any other country, Indian Tribe, state or locality, and then provides further standards on how to respect the flag ; and
- WHEREAS,** the Law states that employees found violating this law may be subject to discipline in accordance with the Nation’s laws, rules and policies governing employment; and

WHEREAS, a first public meeting on the proposed law was held on October 1, 2015, in accordance with the Legislative Procedures Act, and comments received were reviewed and accepted by the Legislative Operating Committee on November 4, 2015.

WHEREAS, a second public meeting on the proposed law was held on December 1, 2016, in accordance with the Legislative Procedures Act, and no written or oral comments were received by the Legislative Operating Committee during the public comment period ending on December 8, 2016.

NOW THEREFORE BE IT RESOLVED, that the Oneida Nation Secretary shall create rules in accordance with these amendments and shall have the final rule(s) prepared within 60 calendar days; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the attached proposed Oneida Nation Seal and Flag Law is hereby adopted and shall become effective in 60 calendar days.



Statement of Effect

Oneida Nation Seal and Flag Law

Summary

This Resolution adopts the proposed Oneida Nation Seal and Flag Law (the “Law”).

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

This resolution adopts a new Oneida Nation Seal and Flag law. This Law recognizes the authority of the Oneida Nation to exercise the fundamental right of sovereignty and self-determination by setting forth the official governmental seal and flag for the Nation, its use and who shall be responsible for safe keeping and authorizing its use.

This proposed law sets forth the official Oneida Nation Seal, a unique symbol reserved for official government use which signifies the Nation’s culture and sovereignty. The Law sets forth which official government documents can use the seal. For documents not qualified to use the seal, the Law also provides the Oneida Nation brand logo for use by all other entities of the Nation. The Law also delegates rulemaking authority to the Oneida Nation Secretary to create rules that govern the placement, maintenance and authorized use of the official Oneida Nation Seal.

The Law sets forth that the Oneida Flag shall represent the jurisdiction and sovereignty of the Oneida Nation when flown. The Law states that all Oneida-owned buildings within the Reservation that currently possess flagpoles, stationary flagstaffs or other means to display a flag and those entities and Oneida-owned buildings that later establish the means to display a flag shall adhere to this law. The Law provides for who shall be responsible for duties relating to the flag, and then goes on to provide details on how to properly display the Oneida Nation Flag. Details on how to properly display the flag include location, time and occasions for display, the position of the flag, conduct during hoisting, lowering or passing of the Oneida flag, manner of display, display of respect, and display off the Reservation.

The Law states that no disrespect shall be shown to the Oneida flag, the United States flag, or the flags of any other country, Indian Tribe, state or locality. The Law then further sets standards for respecting the flag.

Additionally, the Law discusses enforcement and provides that employees found violating this law may be subject to discipline in accordance with the Nation’s laws, rules and policies governing employment.

The first public meeting on the proposed law was held on October 1, 2015, in accordance with the Legislative Procedures Act. On November 4, 2015, the LOC reviewed all comments received

during the public comment period; and any changes made based on those comments have been incorporated into this draft. A second public meeting on the proposed law was held on December 1, 2016. No comments were received during the second public meeting comment period ending on December 8, 2016.

Conclusion

Adoption of this Resolution would not conflict with any of the Nation's laws.



Oneida Nation Seal and Flag

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<i>Analysis by the Legislative Reference Office</i>					
Title	Oneida Nation Seal and Flag				
Sponsor	Jennifer Webster	Drafter	Clorissa N. Santiago	Analyst	Maureen Perkins
Requester & Reason for Request	Oneida Business Committee The OBC deferred the law to the LOC because ONVAC was receiving complaints from non-Tribal members on how the Nation's Flag is displayed. ONVAC has concerns that there is no protocol for those who oversee flag responsibilities. The official Oneida Nation seal was added to this law once it was developed.				
Purpose	The purpose of this law is for the Oneida Nation to exercise the fundamental right of sovereignty and self-determination by setting forth the official governmental Seal and Flag for the Oneida Nation, its use and who shall be responsible for safekeeping and authorizing its use [see 116.1-1].				
Authorized/ Affected Entities	All of the Nation's entities and Oneida-owned buildings within the reservation that currently possess or will possess flag poles, stationary flagstuffs or other means to display a flag must adhere to this law [see 116.5-2]. Oneida owned enterprises are exempt from this law [see 116.3-1(d)].				
Related Legislation	Where the law is ambiguous or does not address a situation, the Federal Flag Code can be used as a guide [see 116.4-1]. Personal Policies and Procedures, Administrative Rulemaking				
Enforcement & Due Process	Where the law is ambiguous or does not address a situation, the Federal Flag Code can be used as a guide [see 116.4-1]. An employee can grieve any disciplinary action pursuant to the Nation's laws, rules and policies governing employment [see <i>Personnel Policies and Procedures, Section V.D.3</i>].				
Public Meeting Status	A public meeting was held on October 1, 2015, and public comments submitted during the public meeting and ensuing public comment period have been considered in the preparation of this draft. A second public meeting was held December 1, 2016.				

6

7

Overview

8 After receiving a number of complaints on how the Oneida Flag (Flag) and US flag are
9 flown within the Reservation, the Oneida Nation Veteran's Affairs Committee (ONVAC)
10 requested that legislation be developed to provide for a consistent way in which the Oneida
11 Nation displays the Flag. On April 22, 2015, the Oneida Business Committee (OBC) made a
12 motion to "request the Legislative Operating Committee to develop a flag code policy . . ." The
13 Federal Flag Code was used as guide in developing this law. In addition, collaboration with
14 ONVAC representatives also participated in creating this law. The Oneida Nation Seal was
15 added to this law to regulate the use of the official Oneida Nation Seal and logo. This law:

16

17

- Recognizes the importance of exercising the fundamental right of sovereignty and self-

18 determination of the Oneida Nation by setting forth the official governmental seal and
19 flag *[see 116.1-1]*.

- 20 ▪ Reserves use of the Oneida Nation Seal to authenticate official government minutes,
21 resolutions, publications, correspondence, documents, and contracts *[see 116.4-2]*. All
22 other documents are to use the Oneida logo *[see 116.4-3]*.
- 23 ▪ Grants the Oneida Secretary rulemaking authority to create rules to govern the placement,
24 maintenance and authorized use of the official Oneida Nation Seal *[see 116.3-1(g) and*
25 *116.4-4]*.
- 26 ▪ Requires all current and future Oneida entities and Oneida Nation-owned buildings on the
27 reservation that fly the Oneida Flag to do so pursuant to this law; excluding Oneida
28 enterprises *[see 116.5-2 and 116.3-1(d)]*.
- 29 ▪ Identifies who is responsible for Oneida Flag duties and if an employee violates this law,
30 he/she can be disciplined *[116.5-2(a) and 116.8]*.
- 31 ▪ Explains how the Flag is to be respected *[see 116.6-5]*.
- 32 ▪ Lists the requirements for how the Flag is to be displayed *[see 116.6]*.
- 33 ▪ Identifies how the Flag is to be displayed outside of the reservation *[see 116.6-6]*.
- 34 ▪ Employees who violate this law may be subject to discipline according to the Nation's
35 laws, rules and policies governing employment *[see 116.8]*. Currently this refers to the
36 Personnel Policies and Procedures.

37 38 **Oneida Nation Seal**

- 39 ▪ The current version of the Real Property Law names the Land Commission as the
40 authorized entity to have made and provided to the Division of Land Management the
41 seal of the Oneida Tribe *[see 67.12-6]*. The Real Property Law Amendments currently
42 under consideration remove this provision and instead name the Nation's Secretary as
43 providing the Division of Land Management with the Nation's Seal *[see 601.10-5 of*
44 *current Real Property Law Amendments]*.

45 46 **Considerations**

47 The Legislative Operating Committee may want to consider the following:

- 48 ▪ There are several versions of the Oneida Flag currently being flown. The LOC may want
49 to consider a resolution recognizing an official Oneida Flag.
- 50 ▪ The law requires that every classroom display the Flag *[see 116.6-1(d)]*. The Oneida
51 Nation High School will need to approximately 20 Flags in order to comply with this law.
52 It is unknown how many, if any, Flags are needed for the Elementary School or Head
53 Start.
- 54 ▪ The enforcement mechanism for this law only covers employees *[see 116.8]*. The LOC
55 may want to consider a penalty for Tribal Members who are not employees of the Nation
56 and elected or appointed officials who violate this law.

1 **Title 1. Government and Finances – Chapter 116**
2 **ONEIDA NATION SEAL AND FLAG**
3 **On<yote>a-k@ Kak^hote> Kayani^hsla>**
4 *People of the standing stone – cloth standing up – laws*
5

6	116.1. Purpose and Policy	10	116.5. Oneida Nation Flag
7	116.2. Adoption, Amendment, Repeal	11	116.6. Display of the Oneida Flag
8	116.3. Definitions	12	116.7. Respect for Flag
9	116.4. Oneida Nation Seal	13	116.8. Enforcement

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15 **116.1. Purpose and Policy**

16 116.1-1. *Purpose.* The purpose of this law is for the Oneida Nation to exercise the fundamental
17 right of sovereignty and self-determination by setting forth the official governmental Seal and
18 Flag for the Oneida Nation, its use and who shall be responsible for safekeeping and authorizing
19 its use.

20 116.1-2. *Policy.* The Oneida Nation Seal is a unique symbol reserved for official government
21 use which signifies the Nation’s culture and sovereignty. The Oneida Flag shall represent the
22 jurisdiction and sovereignty of the Oneida Nation when flown.
23

24 **116.2. Adoption, Amendment, Repeal**

25 116.2-1. This law was adopted by the Oneida Business Committee by resolution _____.

26 116.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
27 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
28 Act.

29 116.2-3. Should a provision of this law or the application thereof to any person or circumstances
30 be held as invalid, such invalidity shall not affect other provisions of this law which are
31 considered to have legal force without the invalid portions.

32 116.2-4. In the event of a conflict between a provision of this law and a provision of another
33 law, the provisions of this law shall control.

34 116.2-5 This law is adopted under authority of the Constitution of the Oneida Nation.
35

36 **116.3. Definitions**

37 116.3-1. This section shall govern the definitions of words or phrases used within this law. All
38 words not defined herein shall be used in their ordinary and everyday sense.

39 (a) “Half-staff” means the position of the flag when it is one-half (1/2) the distance
40 between the top and bottom of the staff.

41 (b) “Nation” means the Oneida Nation.

42 (c) “Oneida Flag” means the official flag of the Oneida Nation.

43 (d) “Oneida-owned building” means a building owned by the Nation within the
44 boundaries of the reservation, but excludes Oneida enterprises.

45 (e) “Proper illumination” means a light specifically placed to illuminate the flag or
46 having a light source sufficient to illuminate the flag so it is recognizable by the
47 casual observer.

48 (f) “Reservation” means all the land within the exterior boundaries of the reservation
49 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat.
50 566, and any lands added thereto pursuant to federal law.

51 (g) “Rule” means a set of requirements, including citation fees and penalty

52 schedules, enacted by the Oneida Nation Secretary in accordance with the
53 Administrative Rulemaking law based on authority delegated in this law in order to
54 implement, interpret and enforce this law.

55 (h) “Seal” means the governmental seal of the Oneida Nation used to authenticate
56 governmental documents and actions.
57

58 **116.4. Oneida Nation Seal**

59 116.4-1. The Oneida Nation Seal shall be as set forth in the following graphic:



60
61 116.4-2. The Seal shall appear on the following documents:

- 62 (a) at the top of all minutes and resolutions of the Oneida Business Committee, Oneida
- 63 Business Committee Standing Committees and General Tribal Council;
- 64 (b) on all publications authorized by the Oneida Nation;
- 65 (c) on all official correspondence of the Oneida Nation;
- 66 (d) on all official documents of the Oneida Nation; and
- 67 (e) on all official contracts of the Oneida Nation.

68 116.4-3. The Oneida Nation Seal shall be reserved specifically for all official government
69 documents described in 116.4-2. All other documents are to use the Oneida logo. All Oneida
70 Nation entities shall use the brand logo in any place that our historic logo/seal or other
71 departmental logo were located and utilized. The Oneida logo shall be set forth in the following
72 graphic:



73
74 116.4-4. *Oneida Nation Secretary Rulemaking Authority.* The Oneida Nation Secretary shall
75 create rules to govern the placement, maintenance and authorized use of the official Oneida
76 Nation Seal.
77

78 **116.5. Oneida Nation Flag**

79 116.5-1. Where this law is ambiguous or does not address a situation, the Federal Flag Code
80 may be used as a guide.

81 116.5-2. All Oneida-owned buildings within the Reservation that currently possess flagpoles,
82 stationary flagstaffs or other means to display a flag and those entities and Oneida-owned
83 buildings that later establish the means to display a flag shall adhere to this law.

84 (a) The building manager or their equivalent of each Oneida-owned building shall
85 appoint a designee to perform the duties set within this law.
86

87 **116.6. Display of the Oneida Flag**

88 116.6-1. *Location, time and occasions for display.* As the Oneida Flag represents the Nation’s
89 sovereignty, it shall be displayed according to the following requirements:

90 (a) The Oneida Flag may be displayed on all days.

91 (b) The Oneida Flag may only be displayed from sunrise to sunset on buildings and on
92 stationary flagstaffs in the open. However, the flag may be displayed twenty-four (24)
93 hours a day if the Oneida Flag is an all-weather flag and is properly illuminated during
94 the hours of darkness.

95 (d) The Oneida Flag shall be displayed during school days near each of the Nation's
96 schools and inside each classroom.

97 (e) The Oneida Flag shall be displayed in and near every polling place within the
98 reservation on the Nation's election days.

99 (f) The Oneida Flag may be mandated to be displayed through resolution of the Oneida
100 Business Committee.

101 116.6-2. *Conduct during hoisting, lowering or passing of the Oneida Flag.* The Oneida Flag
102 shall be hoisted briskly and lowered ceremoniously.

103 116.6-3. *Position of the Flag.* The position of a flag is an important symbol of prominence and
104 sovereignty, therefore the following requirements shall be adhered to:

105 (a) When flags of two or more countries or Indian Tribes are displayed, the flags are to
106 be flown from separate flagstaffs or flag poles that are displayed at the same height and
107 shall be approximately of equal size.

108 (i) The Oneida Nation has a number of buildings with uneven flag poles. Until it
109 is financially feasible to change the existing flag poles to allow the Oneida Flag
110 and United States flag to fly at the same height, the United States flag shall fly
111 from the highest flag pole, when appropriate, and the Oneida Flag shall fly from
112 the flag pole furthest to the right to show prominence. Additionally, any future
113 flag poles shall be constructed in such a way that complies with this law.

114 (b) The Oneida Flag shall be displayed to the furthest right in the position of superior
115 prominence.

116 (c) When other flags are flown from adjacent staffs, the Oneida Flag shall be hoisted first
117 and lowered last.

118 (d) When flags of other states, localities or pennants of societies are flown on the same
119 halyard with the Oneida Flag, the Oneida Flag shall always be at the top.

120 116.6-4. *Manner of Display.* The Oneida Flag shall be displayed as follows:

121 (a) When carried in a procession with another flag or flags, the Oneida Flag shall be
122 either on the marching right; that is, the Flag's own right, or, if there is a line of other
123 flags, in front of the center of that line.

124 (b) When the Oneida Flag is displayed with another flag against a wall from crossed
125 staffs, the Oneida Flag shall be on the right, the Flag's own right, and its staff shall be in
126 front of the staff of the other flag.

127 (c) The Oneida Flag shall only be displayed horizontally against a wall, the Oneida Flag
128 shall be placed in the upright position. When displayed in a window, the flag shall be
129 displayed in the upright position facing the appropriate way to an observer outside the
130 building.

131 (d) When the Oneida Flag is displayed over the middle of the street, the Oneida Flag
132 shall be suspended horizontally and shall be placed in the upright position.

133 (e) When used on a speaker's platform, the flag, if displayed flat, shall be displayed
134 above and behind the speaker. When displayed from a staff in a church or public
135 auditorium, the Oneida Flag shall hold the position of superior prominence, in advance of

136 the audience, and in the position of honor at the clergy's or speaker's right as he or she
137 faces the audience. Any other flag so displayed shall be placed on the left of the
138 clergyman or speaker or to the right of the audience.

139 (f) When the Oneida Flag is suspended across a corridor or lobby, it shall be suspended
140 in the upright position facing the main entrance.

141 (g) The Oneida Flag shall form a distinctive feature of the ceremony of unveiling a statue
142 or monument, but it shall never be used as the covering for the statue or monument.

143 116.6-5. *Display of Respect.* At certain times, the Oneida Flag shall be lowered to half-staff as a
144 sign of respect. In doing so, the Flag shall be first hoisted to the peak for an instant and then
145 lowered to the half-staff position. The Oneida Flag shall be again raised to the peak before it is
146 lowered for the day.

147 (a) On or prior to the following days, the Oneida Flag shall be lowered to half-staff:

148 (i) Oneida Code Talker Day

149 (ii) Memorial Day

150 (iii) Flag Day

151 (iv) Veteran's Day

152 (b) As a sign of respect, when the United States flag is lowered to half-staff, the Oneida
153 Flag shall also be lowered.

154 (c) By a directive of the Oneida Business Committee Chairperson, or his or her designee
155 if the Oneida Business Committee Chairperson is not available, the Oneida Flag shall be
156 flown at half-staff upon the death of a member of the Nation and remain at half-staff until
157 after the funeral.

158 (d) The Oneida Flag shall be lowered to half-staff by directive of the Oneida Business
159 Committee Chairperson for other reasons he or she deems appropriate.

160 116.6-6. *Display Off Reservation.* When outside of the boundaries of the Reservation, the
161 proper display protocol of the jurisdiction shall be followed.

162

163 **116.7. Respect for Flag**

164 116.7-1. No disrespect shall be shown to the Oneida flag, the United States flag or the flags of
165 any other country, Indian Tribe, state or locality.

166 (a) During the ceremony of hoisting or lowering the Oneida Flag or when the Oneida
167 Flag is passing in a parade or in review, all persons present shall face the flag and stand at
168 attention.

169 (b) The Oneida Flag and United States flag shall not be dipped to any person or thing.
170 Regimental colors, state flags, and organization or institutional flags shall be dipped as a
171 mark of honor.

172 (c) The Oneida Flag shall never be displayed upside down.

173 (d) The Oneida Flag shall never touch anything beneath it, such as the ground, the floor,
174 or water.

175 (e) The Oneida Flag shall never be carried flat or horizontally, but always aloft and free.

176 (f) The Oneida Flag shall never be draped, drawn back, tied up, folded, but always
177 allowed to fall free.

178 (g) The Oneida Flag shall never be fastened, displayed, used, or stored in such a manner
179 as to permit it to be easily torn, soiled, or damaged in any way.

180 (h) The Oneida Flag shall never be used as a covering for a ceiling.

181 (i) The Oneida Flag shall never have placed upon it, nor on any part of it, nor attached to
182 it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature
183 besides the Oneida Flag's design.

184 (j) The Oneida Flag shall never be used as a receptacle for receiving, holding, carrying,
185 or delivering anything.

186 (k) The Oneida Flag, when it is in such condition that it is no longer a fitting emblem for
187 display, shall be destroyed in a dignified way, preferably by burning.

188

189 **116.8. Enforcement**

190 116.8-1. Employees found violating this law may be subject to discipline in accordance with the
191 Nation's laws, rules and policies governing employment.

192

193 *End.*

194

195

196

MEMORANDUM

DATE: December 27, 2016
FROM: Rae Skenandore, Project Manager
TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
RE: **Fiscal Impact of the Oneida Nation Seal and Flag Law**

I. Background

The Legislative Operating Committee (LOC) has requested a Financial Impact Statement on draft six of the Oneida Nation Seal and Flag Law. This is a new Law and a public meeting was held on October 1, 2015 and then again on December 15, 2016 once the official seal was added to the Law. According to the Legislative Reference Office, the new law contains the following:

- Recognizes the importance of exercising the fundamental right of sovereignty and self-determination of the Oneida Nation by setting forth the official governmental seal and flag.
- Reserves use of the Oneida Nation Seal to authenticate official government minutes, resolutions, publications, correspondence, documents, and contracts.
- All other documents are to use the (official) Oneida logo.
- Grants the Oneida Secretary Rulemaking authority to create rules to govern the placement, maintenance and authorized use of the official Oneida Nation Seal.
- Requires all current and future Oneida entities and Oneida Nation-owned buildings on the reservation that fly the Oneida Flag to do so pursuant to this law; excluding Oneida enterprises.
- Identifies who is responsible for Oneida Flag duties and if an employee violates this law, he/she can be disciplined in accordance with the blue book; (Personnel Policies and Procedures).
- Explains how the Flag is to be respected.
- Lists the requirements for how the Flag is to be displayed.

- Identifies how the Flag is to be displayed outside of the reservation
- Employees who violate this law may be subject to discipline according to the Nation's laws, rules and policies governing employment

II. Executive Summary of Findings

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

This Law has impacts Tribal wide and it is unknown who will be responsible for the expenses or when they will be realized. Finance contacted the Department of Public Works (DPW), the Oneida Nation School Board, the Secretary's office and Legislative Affairs for this analysis.

DPW has requested clarification on areas of the Law prior to providing an estimate. Given the lack of detail in the Law, DPW can only provide a rough estimate of \$10,000 to bring existing areas into compliance. The School Board and LRO have provided the figures of 54 classrooms at the Turtle School and 20 classrooms at the High School. Without a definition of classroom, Finance only identified those 74 classrooms within the Oneida Nation School System and did not consider the Community Education Center, the Language Program, the Arts Program, etc.

Legislative Affairs / Communications has historically had the responsibility for purchasing, replacing, and coordinating the retirement of the flags. New flags were purchased for all existing outdoor flags through the branding initiative. The total cost was \$5,878.50. According to Legislative Affairs, an individual 4'x6' flag cost \$43.88 and a 3'x5' flag cost \$34.50. Small 4"x6" flags costing \$1.50 were given out to promote the new branding initiative. The \$5,878.50 expense for the branding initiative is a sunk cost and therefore it is not included in the future impact. However, Oneida does not have an official flag approved. It is unclear if Legislative Affairs/Communications will be responsible for this function and costs in the future. Or if each area will be responsible for a replacement and retirement cost (if any).

It was communicated that the intent of the Law was to exclude Tribal Corporations and Enterprises. However, the use of “Oneida Nation Entity” could cause some confusion. Oneida entities usually include Nation owned corporations.

116.5-2 All Oneida-owned buildings within the Reservation that currently possess flagpoles, stationary flagstaves or other means to display a flag and those entities and Oneida-owned buildings that later establish the means to display a flag shall adhere to this law.

Bay Bank is an Oneida Owned Building occupied by two of our corporations. It is unclear how one would apply the criteria of “later establish the means”. It is also unknown who will be responsible for the duties and costs associated with the Law at that location. The Department of Public Works does not maintain that facility.

The Law states the following,

“The Oneida Nation has a number of buildings with uneven flag poles. Until it is financially feasible to change the existing flag poles to allow the Oneida Flag and United States flag to fly at the same height, the United States flag shall fly from the highest flag pole, when appropriate, and the Oneida Flag shall fly from the flag pole furthest to the right to show prominence”.

There is no indication of who would determine when it is financially feasible to make the changes or who would be responsible for the expense. That said, the Department of Public Works estimates that approximately \$10,000 will be needed to bring the existing flags into compliance. It is Finance’s understanding DPW will determine when it is financially feasible to place this item in their budget request.

It is unclear if any agency has oversight authority for the implementation of this Law beyond the supervisor of the individual performing the duties associated with the flags. It is unknown if there will be any additional costs for personnel based on the flag duties which may include nights and weekends. Without an identified agency or area for oversight, it is unknown if there are any additional startup, office, or documentation costs. Based on the limited existing financial information, the minimum fiscal impact would include the following;

Oneida Nation School Classrooms		74
16"x24" flag mounted on a 3/8" x 36" staff with a stamped steel bracket	\$	8.00
Total estimated cost of the classroom flags	\$	592.00
Compliance for existing sites	\$	10,000.00
Total Estimate	\$	10,592.00

*Estimate is based on the vendor recommendation for the most economical mounting.

According to LRO, the Secretary's office will require 60 days to complete the rules and LA indicated that their timeline to process the order all the outdoor flags was approximately two months. If the inventory is still available through LA, the ONSS will use the 4"x 6" desk flags for the 2017-2018 school year and will budget for classroom flags in the 2018-2019 school year.

III. Financial Impact

A minimum of approximately \$10,592 to bring existing locations into compliance.

IV. Recommendation

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



Legislative Operating Committee January 4, 2017

Petition: E. Delgado - Oneida Panel of Educators and Retention of Kindergarten Students

Submission Date: 10/12/2016

Public Meeting: N/A
 Emergency Enacted:
Expires:

LOC Sponsor: Fawn Billie

Summary: This petition requests the General Tribal Council (GTC) to direct the Oneida Business Committee (OBC) to create an Oneida panel of educators to review the negative effects of retention of kindergarten children and bring the information gathered to the GTC for review and possible action.

10/26/16 OBC: Motion by Lisa Summers to accept the verified petition submitted by Edward Delgado regarding Oneida panel of educators and retention of kindergarten students; and to request appropriate analyses, seconded by Fawn Billie. Motion carried unanimously. Motion by Lisa Summers to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices for the legal, financial, legislative, and administrative analyses to be completed seconded by Fawn Billie. Motion carried unanimously. Motion by Lisa Summers to direct the Law, Finance, and Legislative Reference Offices to submit the analyses to the Tribal Secretary's Office within sixty (60) days, and that a progress report be submitted in forty-five (45) days, seconded by David Jordan. Motion carried unanimously. Motion by Lisa Summers to direct the Direct Report Offices to submit the appropriate administrative analyses to the Tribal Secretary's Office within thirty (30) day, seconded by Jennifer Webster. Motion carried unanimously.

12/21/16 LOC: Motion by David P. Jordan to add Petition: Delgado-Panel of Educators and Retention of Kindergarten Students to the Active Files list with Fawn Billie as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

Motion by Fawn Billie to approve the 45 Day Progress Report and forward to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

Next Steps:

- Accept the legislative analysis for Petition-E. Delgado – Oneida Panel of Educators and Retention of Kindergarten Students; and
- Forward the legislative analysis for Petition-E. Delgado – Oneida Panel of Educators and Retention of Kindergarten Students to the Oneida Business Committee.



Statement of Effect

Petition: E. Delgado - Oneida Panel of Educators and Retention of Kindergarten Students

Summary

This petition requests the General Tribal Council (GTC) to direct the Oneida Business Committee (OBC) to create an Oneida panel of educators to review the negative effects of retention of kindergarten children and bring the information gathered to the GTC for review and possible action.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Analysis by the Legislative Reference Office

On October 12, 2016, this petition was submitted to the Tribal Secretary's Office and has since been verified by the Enrollments Department. On October 26, 2016, the OBC accepted receipt of the petition and forwarded it for the appropriate analyses, including this legislative analysis.

The petition states, "Where the Nation retains an extraordinary number of kindergarteners, we voters of the Nation call for a GTC meeting to direct OBC to create an Oneida panel of educators to review the negative effects of retention of kindergarten children and bring study to GTC for review and possible action."

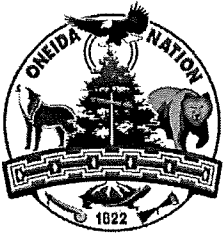
After reviewing the petition and applicable laws of the Nation it has been determined that this petition would have no legislative impact.

Conclusion

There is no legislative impact from this petition.

Requested Action

Accept the legislative analysis of the Petition: Delgado Oneida Panel of Educators.



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



TO: Legislative Operating Committee
FROM: Jennifer Falck, Legislative Reference Office Director *JF*
DATE: January 4, 2017
RE: Tribal Criminal Code, Tribal Public Peace Law and Tribal Traffic Code: 60 Day Update

INTRODUCTION

At the October 26, 2016 Oneida Business Committee meeting the following motion was made:

Motion by Lisa Summers to send the recommendations provided in the [Police Commission] report to create a tribal criminal code, tribal traffic code and tribal public peace laws to exercise the Nation's sovereignty and jurisdiction, and curfew to the Legislative Operating Committee for consideration, seconded by Fawn Billie. Motion carried unanimously.

This action was taken as a response to a request from the Oneida Police Commission that these laws be created in an effort to exercise the Oneida Nation's sovereignty and jurisdiction [See Oneida Police Commission 4th Quarterly Report, pg. 241 of the OBC October 26, 2016 meeting packet].

LOC ACTION

On December 7, 2016, the Tribal Criminal Code, Tribal Traffic Code and Tribal Public Peace Laws were considered by the LOC and have been added to the Active Files List as low priorities. The Legislative Reference Office was then directed to generate research regarding implementation requirements and strategies- given the short timeframe remaining in the current legislative term. The incoming elected 2017-2020 Legislative Operating Committee will have the option to continue to develop these laws.

Motion by Jennifer Webster to add the Tribal Criminal Code to the Active Files list as a low priority with Brandon Stevens as the sponsor, add the Tribal Traffic Code to the Active Files list as a low priority with Tehassi Hill as the sponsor, and add the Tribal Public Peace Law to the Active Files list with Jennifer Webster and Fawn Billie as co-sponsors; seconded by Fawn Billie. Motion carried unanimously.

The Legislative Reference Office is currently researching each of these laws and will report back regarding feasibility, implementation requirements, and strategies in March 2017.



Legislative Operating Committee
January 4, 2017

Community Support Fund Amendments

Submission Date: 7/1/15	Public Meetings: 10/29/15 and 11/3/16
LOC Sponsor: David P. Jordan	Emergency Enacted: N/A

Summary: *This item was brought forward to reconcile the Policy with language found in BC Resolution 12-11-13-D - clarifying that someone who receives assistance from the Fund program does not have to cost share if they are at or below the federal Poverty Guidelines. The Fund operators have requested additional changes.*

7/1/15 LOC: Motion by David P. Jordan to add the Community Support Fund Policy Amendments to the Active Files List with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

7/22/15 OBC: Item deferred to the next regular Business Committee meeting. *No action taken; item moved to open session (XII.I.) at the adoption of the agenda.*

8/12/15 OBC: *Item sent to a Business Committee special meeting agenda at the adjournment of the meeting.*

8/17/15 OBC: 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 [Tehassi Hill] and one abstention [Brandon Stevens].

For the record: Brandon Stevens stated this item went on the LOC active files list on July 1st.

For the record: Tehassi Hill stated I oppose too because it is already on the LOC's agenda and Councilman David Jordan is already the sponsor. This is already being worked on so I don't believe it's necessary to add this to the LOC's agenda twice. It's already there.

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.
- 2/3/16 LOC:** Motion by Fawn Billie to accept the draft of the Community Support Fund Policy Amendments, to forward to the Legislative Reference Office for an updated analysis and to the Finance Department for a fiscal impact statement; seconded by Tehassi Hill. Motion carried unanimously.
- 7/6/16 LOC:** Motion by Tehassi Hill to adopt the agenda with the addition of the Membership Ordinance Emergency Amendments and the deletion of the Community Support Fund, deferring this item to the next LOC meeting; seconded by David P. Jordan. Motion carried unanimously.
- 8/2/16:** *Work Meeting Held.* Attendees include Jo Anne House, Nancy Barton, Debra Powless, Brandon Stevens, David P. Jordan, Trina Schuyler
- 8/4/16:** *Work Meeting Held.* Attendees include Jo Anne House, Nancy Barton, David P. Jordan, Debra Powless, Trina Schuyler
- 9/21/16LOC:** Motion by David Jordan to accept the draft and legislative analysis and to forward the Community Support Fund to a November 3, 2016 public meeting; seconded by Fawn Billie. Motion carried unanimously.

10/13/16: *Quarterly Sponsor Update Meeting held.* Present: David Jordan, Krystal John, Leyne Orosco, Tani Thurner, Maureen Perkins, Clorissa Santiago. Public meeting scheduled for 11/3/16.

11/3/16 *Public Meeting Held.*

12/07/16 LOC: Motion by David P. Jordan to approve the Community Support Fund Amendments public meeting memo and direct the LRO to prepare an updated analysis and an adoption packet incorporating the LOC's revisions for Oneida Business Committee adoption; seconded by Jennifer Webster. Motion carried unanimously.

12/21/16 LOC: Motion by David P. Jordan to make the appropriate changes to the Community Support Fund Amendments adoption packet and forward updated adoption packet to the LOC via e-poll for approval, and then forward the Community Support Fund adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried, with Tehassi Hill abstaining.

Next Steps:

- Approve the Community Support Fund Amendments e-poll.

From: Fawn J. Billie

Sent: Wednesday, December 21, 2016 1:57 PM

To: Krystal John

Subject: RE: Community Support Fund E-Poll

33 of 138

Support

From: Jennifer A. Webster
Sent: Wednesday, December 21, 2016 1:32 PM
To: Krystal John; Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Ronald W. Hill
Cc: Jennifer A. Falck; Candice E. Skenandore
Subject: RE: Community Support Fund E-Poll

Approve,
Jenny

From: Ronald W. Hill
Sent: Wednesday, December 21, 2016 2:56 PM
To: Krystal John; Brandon L. Yellowbird-Stevens; David P. Jordan; Fawn J. Billie; Jennifer A. Webster
Cc: Jennifer A. Falck; Candice E. Skenandore
Subject: RE: Community Support Fund E-Poll

Looks good.

From: Brandon L. Yellowbird-Stevens <bstevens@oneidanation.org>, David P. Jordan <djordan1@oneidanation.org>, "Fawn J. Billie" <fbillie@oneidanation.org>, "Jennifer A. Webster" <JWEBSTE1@oneidanation.org>, "Ronald W. Hill" <rhill7@oneidanation.org>
Cc: "Jennifer A. Falck" <jfalck@oneidanation.org>, "Candice E. Skenandore" <cskena10@oneidanation.org>
Subject: Community Support Fund E-Poll

Good afternoon, LOC,

Please see the attached revised adoption packet for the Community Support Fund. The first draft is for your reference only so that you can see the revisions that were directed on the floor today. The remainder is what is proposed to be forwarded to the Oneida Business Committee for consideration.

Please respond as to whether you support this packet being forward to the OBC as soon as possible as the LRO is required to submit all documents for the OBC packet today.

From: David P. Jordan
Sent: Wednesday, December 21, 2016 1:30 PM
To: Krystal John; Brandon L. Yellowbird-Stevens; Fawn J. Billie; Jennifer A. Webster; Ronald W. Hill
Cc: Jennifer A. Falck; Candice E. Skenandore
Subject: RE: Community Support Fund E-Poll

support

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Legislative Operating Committee
January 4, 2017

Endowments Law Amendments

Submission Date: 12/21/16	Public Meeting: none
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *An amendment to identify that authorization in a resolution creating an endowment is the equivalent of authority delegated by law as identified in the Administrative Rulemaking law for the purposes of developing rules.*

12/21/16 LOC: Motion by David P. Jordan to add Endowments Amendments to the Active Files list as a high priority with David P. Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

Next Steps:

- Forward to the Legislative Reference Office for a legislative analysis, and to the Finance Office for a fiscal analysis, both analyses due to the Legislative Reference Office on January 12, 2017, in preparation for the January 18, 2017, LOC meeting.

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Title 1. Government and Finances - Chapter 13184

ENDOWMENTS

On^yote'a:ka Luwatithwistay^hahse Kay^tla'sla
(Oneida Money Saved for our People the Laws)

<p>13184.1+ Purpose and Policy</p> <p>13184.2+ Adoption, Amendment, Repeal</p> <p>13184.3+ Definitions</p> <p>13184.4+ Powers and Duties of the Oneida Business Committee</p> <p>84131.5+ Powers and Duties of the Oneida Finance Committee</p> <p>13184.6+ Powers and Duties of the Oneida Trust Committee</p> <p>13184.7+ Powers and Duties of the Director of the Oneida Trust</p>	<p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p>	<p>Department</p> <p>13184.8+ Transfer of Funds</p> <p>13184.9+ Reduction of Principal</p> <p>13184.10+ _____Dissolution of Endowment</p> <p>Accounts</p> <p>131.11 <u>Rules Adopted Under Endowments Created by</u> <u>Resolution</u></p>
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84131.1.-1. Purpose and Policy.

131.1-1. The purpose of this law is to provide the process for the establishment and maintenance of all endowment accounts established by the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

84131.1-2. It is the policy of the ~~Tribe Nation~~ that endowments will be maintained, protected and grown in value for the benefit of the Oneida people, both those in the present, and future generations.

84131.2.-1. Adoption, Amendment, ~~Applicability~~ and Repeal.

131.2-1. This ~~L~~law is adopted ~~under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin~~ by the Oneida Business Committee ~~by r~~Resolution BC-#-02-23-05-G and BC.

84131.2-2. This ~~L~~law may be amended, or repealed, by the Oneida Business Committee ~~and/or by the Oneida General Tribal Council~~ pursuant to the procedures set out in the Legislative Procedures Act.

84131.2-3. Should a provision of this law or the application thereof to any person or circumstances of this law be held as invalid, such invalidity shall not effect other provisions of this law which are considered to have legal force without the invalid portions.

84131.2-4. ~~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~~ 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.

84131.2-5. This law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation

84131.3-1. Definitions.

131.3-1. 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.

84 ~~(a) -3-2-~~“(Contribution)” means a cash or check donation to the Oneida ~~Tribe Nation~~ for the purpose of contributing to an existing endowment account, or for the establishment of an endowment account. In addition, a contribution or gift may be accepted if it has potential monetary value, which may include, but not be limited to, stocks, bonds, real estate, property, and other assets including, but not limited to, assets which are current, commercial, equitable, earning, tangible and intangible.

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55 ~~84 (b) .3-3.~~ “Endowment fund account” means an account established from a gift, bequest
56 or grant of monetary value, granted to the Oneida ~~Tribe~~Nation, or by the Oneida ~~Tribe~~
57 Nation for the establishment of, or contribution to, an endowment account for a specified
58 purpose which may be invested or deposited to grow and provide income to finance
59 operations and programs of the ~~Tribe~~Nation or as specified in the creation of an account
60 with an identified trustee.

61 ~~84 (c) .3-4.~~ “Income” means money or its equivalent derived from financial investments.
62 The term includes interest, dividends or capital appreciation.

63 ~~84 (d) .3-5.~~ “~~Tribe or Tribal~~Nation” means the Oneida ~~Tribe of Indians of~~
64 WisconsinNation.

65 ~~(e) “Tribe or Tribal” means the Oneida Nation.~~

66
67 **84131.4-1. Duties and Responsibilities of the Oneida Business Committee.**

68 131.4-1. The Oneida Business Committee shall exercise oversight over endowment fund
69 accounts which includes:

- 70 (a) Approve or disapprove the establishment of endowment fund accounts as
71 recommended by the Finance Committee;
72 (b) Authority to cause any or all endowment fund accounts to be audited by an
73 independent auditor. Said audit shall become part of the public record and made
74 available to the public. An executive summary of the audit shall be included on the
75 agenda of the next regularly scheduled meeting of the Oneida General Tribal Council.
76

77 **84131.5-1. Duties and Responsibilities of the Oneida Finance Committee.**

78 131.5-1. The Oneida Finance Committee is charged with establishing all endowment fund
79 accounts, with final approval from the Oneida Business Committee.

80 (a) Before the Oneida Finance Committee establishes any endowment fund account the
81 Oneida Finance Committee shall publish a notice in the Oneida Tribal newspaper (KALI-
82 HWISAKS) a minimum of twenty (20) calendar days prior to a community meeting on
83 the proposed endowment. The notice shall include:

- 84 (1) A statement of the terms, substance, or a description of the subjects and issues
85 involved;
86 (2) The time, place, whom, and manner in which views may be presented. Said
87 notice shall be published and posted for no less than ten (10) calendar days prior
88 to the community meeting.

89 (b) The establishment of endowment fund accounts from private donors shall take no
90 more than one hundred and twenty (120) calendar days from the date of ~~notification~~
91 from the Finance Committee of the donation received for the purpose of establishing an
92 endowment fund account. These endowment fund accounts shall be exempt from the
93 community meeting requirements as stated above.
94

95 **84131.6-1. Duties and Responsibilities of the Oneida Trust Committee.**

96 131.6-1. The Oneida Trust Committee shall have exclusive control of the investment and
97 collection of principal, interest and investments of all monies deposited in, and income derived
98 from, all Oneida ~~Tribe~~Nation endowment fund accounts.

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99 | 84131.6-2. The Oneida Trust Committee is authorized to accept donations, gifts, bequests or
100 | other instrument from private donors for the purpose of establishing endowment fund accounts
101 | and shall notify the Oneida Finance Committee immediately upon receipt.

102 | (a) Pending the establishment of an endowment fund account, the Oneida Trust
103 | Committee shall deposit the gift into an interest bearing account.

104 | 84131.6-3. The Oneida Trust Committee shall provide written annual financial reports to the
105 | Oneida Business Committee and to the Oneida General Tribal Council. Such- financial reports
106 | shall include:

107 | (a) An itemized accounting of all monies placed into endowment fund accounts.

108 | (b) An itemized accounting of all withdrawals to include the date and destination of any
109 | withdraw from all endowment fund accounts.

110 | (c) An itemized accounting of all monies spent on consultants, the reason for such
111 | consultation or advicse, and the total amount spent for the consultation or advicse. Said
112 | accounting shall include the names of any non-~~Tribal~~-Nation employee financial
113 | consultants and investment advisors utilized.

114 | 84131.6-4. The Oneida Trust Committee will have the sole approval and sign off authority in
115 | relation to the Oneida Trust Department's administrative activities regarding endowment fund
116 | accounts assigned to it by law.

117 | 84131.6-5. With the Oneida Trust Committee's approval, the Oneida Trust Committee
118 | Chairperson shall sign all deeds, contracts and other documents relating to endowment fund
119 | accounts.

120 | 84131.6-6. The Oneida Trust Committee shall submit a semi-annual report to the Oneida
121 | Business Committee on the condition, management and goals of endowment fund accounts.

122 | 84131.6-7. Consistent with its Bylaws and the provisions of this law, the Oneida Trust
123 | Committee shall adopt and implement internal procedures on investing endowment fund
124 | accounts.

125 |
126 | **84131.7-1. Duties and Responsibilities of the Director of the Oneida Trust Department.**

127 | 131.7-1. The Director of the Oneida Trust Department shall adhere to the policies, principals
128 | and procedures of the Oneida Trust Committee.

129 | 84131.7-2. The Director of the Oneida Tribal Trust Department shall submit to the Oneida Trust
130 | Committee and the Office of the ~~Tribal~~-Oneida Nation Treasurer, quarterly financial reports and
131 | performance measurements on all Oneida ~~Tribe~~-Nation endowment fund accounts. The quarterly
132 | financial reports shall include an itemized accounting of all expenditures.

133 |
134 | **84131.8-1. Transfer of Funds.**

135 | 131.8-1. Pursuant to the ~~Tribal~~-Nation's budgetary process, the Director of the Oneida Trust
136 | Department shall notify the ~~Tribal~~-Oneida Nation Treasurer regarding how much investment and
137 | interest income may be available for Tribal contribution to programs identified to receive
138 | funding from endowment fund accounts.

139 | 84131.8-2. Unless otherwise specified in the establishment of any endowment fund account, the
140 | amount available for ~~Tribal~~-programs of the Nation shall not exceed seventy five percent (75%)
141 | of income earned from financial investments made from an endowment fund account owned by
142 | the ~~Tribe~~Nation. Income, minus administrative costs, not transferred shall be added to the

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143 principal of each endowment fund account.

144 (a) Unless otherwise expressed by the grantor, transfer of funds shall not be allowed if the
145 principal of the account is less than ten thousand dollars (\$10,000) or the transfer of funds
146 is less than five hundred dollars (\$500).

147 (b) Allocated funds from endowment fund accounts owned by the Oneida ~~Tribe~~ Nation
148 shall be transferred to line item accounts of designated programs within one (1) calendar
149 week of the adoption of the fiscal year budget.

150

151 **84131.9-1. Reduction of Principal.**

152 131.9-1. The principal of all Oneida ~~Tribe~~ Nation endowment fund accounts shall not be
153 reduced except in accordance with this section.

154 (a) Any reduction of an endowment fund account shall require a two-thirds (2/3)
155 ~~majority~~ vote of the Oneida Trust Committee, Oneida Finance Committee and the Oneida
156 Business Committee.

157 (1) The reduction of an endowment fund account which contains five hundred
158 thousand dollars (\$500,000) or more -shall require a two-thirds (2/3) ~~majority~~ vote
159 of the Oneida General Tribal Council.

160

161 **84131.10-1. Dissolution of Endowment Fund Accounts.**

162 131.10-1. Endowment fund accounts shall be closed only upon the recommendation of the
163 Oneida Finance Committee and the Oneida Trust Committee and ratification by the Oneida
164 Business Committee.

165 (a) When an endowment fund account is closed, no private person shall be entitled to any
166 distribution or division of its assets. Any assets remaining to the endowment at
167 dissolution or liquidation shall be distributed as follows:

168 (1) All liabilities of the endowment shall be paid or adequate provision shall be
169 made for payment;

170 (2) Assets held by the endowment upon a condition which occurs by reason of
171 the dissolution shall be returned or otherwise conveyed in accordance with such
172 requirements; and

173 (3) All remaining assets shall be distributed to the Oneida ~~Tribe~~ Nation General
174 Fund to be used to carry on activities consistent with the purposes for which the
175 endowment was organized.

176

177 **131.11. Rules Adopted Under Endowments Created by Resolution.**

178 131.11-1. An endowment created by a resolution may incorporate rulemaking authority under
179 the Administrative Rulemaking law. A resolution which includes such authority shall be
180 construed as authority granted by law.

181

182 *End.*

183

184
185

BC # 2-23-05-G Adopted

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Title 1. Government and Finances - Chapter 131

ENDOWMENTS

On[^]yote'a:ka Luwatithwistay[^]hahse Kay[^]tla'sla
(Oneida Money Saved for our People the Laws)

6	131.1	Purpose and Policy	13	Department
7	131.2	Adoption, Amendment, Repeal	14	131.8 Transfer of Funds
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9	131.4	Powers and Duties of the Oneida Business Committee	16	131.10 Dissolution of Endowment Accounts
10	131.5	Powers and Duties of the Oneida Finance Committee	17	131.11 Rules Adopted Under Endowments Created by
11	131.6	Powers and Duties of the Oneida Trust Committee	18	Resolution
12	131.7	Powers and Duties of the Director of the Oneida Trust		

20

131.1. Purpose and Policy.

22 131.1-1. The purpose of this law is to provide the process for the establishment and maintenance
23 of all endowment accounts established by the Oneida Nation.

24 131.1-2. It is the policy of the Nation that endowments will be maintained, protected and grown
25 in value for the benefit of the Oneida people, both those in the present, and future generations.

26

131.2. Adoption, Amendment, and Repeal.

28 131.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-02-23-05-G
29 and BC_____.

30 131.2-2. This Law may be amended or repealed by the Oneida Business Committee and/or
31 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
32 Act.

33 131.2-3. Should a provision of this law or the application thereof to any person or circumstances
34 be held as invalid, such invalidity shall not effect other provisions of this law which are
35 considered to have legal force without the invalid portions.

36 131.2-4. In the event of a conflict between a provision of this law and a provision of another
37 law, the provisions of this law shall control.

38 131.2-5. This law is adopted under authority of the Constitution of the Oneida Nation

39

131.3. Definitions.

41 131.3-1. This section shall govern the definitions of words and phrases used within this law. All
42 words not defined herein shall be used in their ordinary and everyday sense.

43 (a) "Contribution" means a cash or check donation to the Oneida Nation for the purpose
44 of contributing to an existing endowment account, or for the establishment of an
45 endowment account. In addition, a contribution or gift may be accepted if it has potential
46 monetary value, which may include, but not be limited to, stocks, bonds, real estate,
47 property, and other assets including, but not limited to, assets which are current,
48 commercial, equitable, earning, tangible and intangible.

49 (b) "Endowment fund account" means an account established from a gift, bequest or
50 grant of monetary value, granted to the Oneida Nation, or by the Oneida Nation for the
51 establishment of, or contribution to, an endowment account for a specified purpose
52 which may be invested or deposited to grow and provide income to finance operations
53 and programs of the Nation or as specified in the creation of an account with an identified

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54 trustee.

55 (c) "Income" means money or its equivalent derived from financial investments. The
56 term includes interest, dividends or capital appreciation.

57 (d) "Nation" means the Oneida Nation.

58 (e) "Tribe or Tribal" means the Oneida Nation.

59

60 **131.4. Duties and Responsibilities of the Oneida Business Committee.**

61 131.4-1. The Oneida Business Committee shall exercise oversight over endowment fund
62 accounts which includes:

63 (a) Approve or disapprove the establishment of endowment fund accounts as
64 recommended by the Finance Committee;

65 (b) Authority to cause any or all endowment fund accounts to be audited by an
66 independent auditor. Said audit shall become part of the public record and made
67 available to the public. An executive summary of the audit shall be included on the
68 agenda of the next regularly scheduled meeting of the Oneida General Tribal Council.

69

70 **131.5. Duties and Responsibilities of the Oneida Finance Committee.**

71 **131.5-1.** The Oneida Finance Committee is charged with establishing all endowment fund
72 accounts, with final approval from the Oneida Business Committee.

73 (a) Before the Oneida Finance Committee establishes any endowment fund account the
74 Oneida Finance Committee shall publish a notice in the Oneida Tribal newspaper (KALI-
75 HWISAKS) a minimum of twenty (20) calendar days prior to a community meeting on
76 the proposed endowment. The notice shall include:

77 (1) A statement of the terms, substance, or a description of the subjects and issues
78 involved;

79 (2) The time, place, whom, and manner in which views may be presented. Said
80 notice shall be published and posted for no less than ten (10) calendar days prior
81 to the community meeting.

82 (b) The establishment of endowment fund accounts from private donors shall take no
83 more than one hundred and twenty (120) calendar days from the date of notification from
84 the Finance Committee of the donation received for the purpose of establishing an
85 endowment fund account. These endowment fund accounts shall be exempt from the
86 community meeting requirements as stated above.

87

88 **131.6. Duties and Responsibilities of the Oneida Trust Committee.**

89 131.6-1. The Oneida Trust Committee shall have exclusive control of the investment and
90 collection of principal, interest and investments of all monies deposited in, and income derived
91 from, all Oneida Nation endowment fund accounts.

92 131.6-2. The Oneida Trust Committee is authorized to accept donations, gifts, bequests or other
93 instrument from private donors for the purpose of establishing endowment fund accounts and
94 shall notify the Oneida Finance Committee immediately upon receipt.

95 (a) Pending the establishment of an endowment fund account, the Oneida Trust
96 Committee shall deposit the gift into an interest bearing account.

97 131.6-3. The Oneida Trust Committee shall provide written annual financial reports to the

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98 Oneida Business Committee and to the Oneida General Tribal Council. Such financial reports
99 shall include:

- 100 (a) An itemized accounting of all monies placed into endowment fund accounts.
101 (b) An itemized accounting of all withdrawals to include the date and destination of any
102 withdraw from all endowment fund accounts.
103 (c) An itemized accounting of all monies spent on consultants, the reason for such
104 consultation or advice, and the total amount spent for the consultation or advice. Said
105 accounting shall include the names of any non-Nation employee financial consultants and
106 investment advisors utilized.

107 131.6-4. The Oneida Trust Committee will have the sole approval and sign off authority in
108 relation to the Oneida Trust Department's administrative activities regarding endowment fund
109 accounts assigned to it by law.

110 131.6-5. With the Oneida Trust Committee's approval, the Oneida Trust Committee Chairperson
111 shall sign all deeds, contracts and other documents relating to endowment fund accounts.

112 131.6-6. The Oneida Trust Committee shall submit a semi-annual report to the Oneida Business
113 Committee on the condition, management and goals of endowment fund accounts.

114 131.6-7. Consistent with its Bylaws and the provisions of this law, the Oneida Trust Committee
115 shall adopt and implement internal procedures on investing endowment fund accounts.
116

117 **131.7. Duties and Responsibilities of the Director of the Oneida Trust Department.**

118 131.7-1. The Director of the Oneida Trust Department shall adhere to the policies, principals
119 and procedures of the Oneida Trust Committee.

120 131.7-2. The Director of the Oneida Tribal Trust Department shall submit to the Oneida Trust
121 Committee and the Office of the Oneida Nation Treasurer, quarterly financial reports and
122 performance measurements on all Oneida Nation endowment fund accounts. The quarterly
123 financial reports shall include an itemized accounting of all expenditures.
124

125 **131.8. Transfer of Funds.**

126 131.8-1. Pursuant to the Nation's budgetary process, the Director of the Oneida Trust
127 Department shall notify the Oneida Nation Treasurer regarding how much investment and
128 interest income may be available for Tribal contribution to programs identified to receive
129 funding from endowment fund accounts.

130 131.8-2. Unless otherwise specified in the establishment of any endowment fund account, the
131 amount available for programs of the Nation shall not exceed seventy five percent (75%) of
132 income earned from financial investments made from an endowment fund account owned by the
133 Nation. Income, minus administrative costs, not transferred shall be added to the principal of
134 each endowment fund account.

135 (a) Unless otherwise expressed by the grantor, transfer of funds shall not be allowed if the
136 principal of the account is less than ten thousand dollars (\$10,000) or the transfer of funds
137 is less than five hundred dollars (\$500).

138 (b) Allocated funds from endowment fund accounts owned by the Oneida Nation shall be
139 transferred to line item accounts of designated programs within one (1) calendar week of
140 the adoption of the fiscal year budget.
141

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142 **131.9. Reduction of Principal.**

143 131.9-1. The principal of all Oneida Nation endowment fund accounts shall not be reduced
144 except in accordance with this section.

145 (a) Any reduction of an endowment fund account shall require a two-thirds (2/3) vote of
146 the Oneida Trust Committee, Oneida Finance Committee and the Oneida Business
147 Committee.

148 (1) The reduction of an endowment fund account which contains five hundred
149 thousand dollars (\$500,000) or more shall require a two-thirds (2/3) vote of the
150 Oneida General Tribal Council.

151

152 **131.10. Dissolution of Endowment Fund Accounts.**

153 131.10-1. Endowment fund accounts shall be closed only upon the recommendation of the
154 Oneida Finance Committee and the Oneida Trust Committee and ratification by the Oneida
155 Business Committee.

156 (a) When an endowment fund account is closed, no private person shall be entitled to any
157 distribution or division of its assets. Any assets remaining to the endowment at
158 dissolution or liquidation shall be distributed as follows:

159 (1) All liabilities of the endowment shall be paid or adequate provision shall be
160 made for payment;

161 (2) Assets held by the endowment upon a condition which occurs by reason of
162 the dissolution shall be returned or otherwise conveyed in accordance with such
163 requirements; and

164 (3) All remaining assets shall be distributed to the Oneida Nation General Fund
165 to be used to carry on activities consistent with the purposes for which the
166 endowment was organized.

167

168 **131.11. Rules Adopted Under Endowments Created by Resolution.**

169 131.11-1. An endowment created by a resolution may incorporate rulemaking authority under
170 the Administrative Rulemaking law. A resolution which includes such authority shall be
171 construed as authority granted by law.

172

173 *End.*

174

176

BC # 2-23-05-G Adopted



Legislative Operating Committee January 4, 2017

Tobacco Amendments

Submission Date: 7/22/16	Public Meeting: 12/15/16
LOC Sponsor: Tehassi Hill	Emergency Enacted: n/a Expires: n/a

Summary: A member of the Oneida Nation requested changes to the Tobacco Ordinance in order to enable both Oneida Nation descendants and sixteen (16) and seventeen (17) year olds to be eligible for employment in Oneida businesses that sell tobacco.

8/17/16 LOC: Motion by Tehassi Hill to add Tobacco Ordinance Amendments to the active files list as medium priority, listing Tehassi Hill as the sponsor; seconded by David P. Jordan. Motion carried unanimously.

10/10/16: *Quarterly Sponsor Update meeting.* Present: Tehassi Hill, Maureen Perkins, Tani Thurner, Clorissa Santiago, Krystal John. Item was assigned to Clorissa Santiago as Drafter and Maureen Perkins as Analyst.

11/03/16: *Work Meeting held.* Present: Tehassi Hill, Kathy King, Maureen Perkins, Geraldine Danforth, Bob Keck, JoAnne House, Jen Falck, and Clorissa Santiago. Michelle Doxtator will complete a memo and provide it to the LRO to update an analysis and the Drafter will update a draft. Should be on the 11/16/16 LOC agenda.

11/16/16 LOC: Motion by Jennifer Webster to approve the Tobacco Law Amendments public meeting packet and direct the LRO to hold a public meeting on December 15, 2016; seconded by Tehassi Hill. Motion carried unanimously.

12/15/16: Public Meeting Held

Next Steps:

- Review and accept public meeting comments, directing changes, if necessary.
- Forward to the LRO for an updated legislative analysis, and to the Finance Office for a fiscal analysis, both analyses due to the LRO on January 12, 2017, in preparation for the January 18, 2017, LOC meeting.
- Direct the LRO to prepare an adoption packet for the Tobacco law amendments.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office Staff Attorney
DATE: January 4, 2016
RE: Tobacco Law: Public Meeting Comment Review

On December 15, 2016, a public meeting was held regarding amendments to the Tobacco Ordinance. This memorandum is submitted as a review of the oral and written comments received within the public meeting and public comment period. The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

Comments 1 – Purpose:

Michele Doxtator: Someone was a little taller than me. Oneida Retail has requested the change in the Tobacco Ordinance after careful consideration. This is not something we ask for lightly, it is something that we've tried to avoid for the last 18 months.

Even with the potential to hire non-tribal members into the Associate position, in the stores, is no guarantee that we'll be able to fill all of the positions. In our current market, those positions are hard to fill for everyone, not just us. I did have two examples of some of the things other retailers are doing. For instance:

Fleet Farm starts off their employees at \$10.00 dollars an hour as well, with a \$2.00 premium pay on the weekends. We don't offer any weekend pay. The other one is Woodman's. A bagger starts off at 10.00 dollars an hour, after six (6) months they move up to \$12.00. To get to \$12.00 an hour in our organization, requires action by General Tribal Council. So even if this amendment is approved it may not help us enough. There may be more things that we'll have to do to fill those positions.

Michele Doxtator (written): Oneida Retail requested the change in the Tobacco Ordinance after careful consideration of our needs to fully staff the Oneida One Stops, Smokeshops, Travel Center and the Oneida Market. Oneida Retail has made other attempts to recruit and retain employees in the stores such as increasing the starting salary, flexible scheduling, part time and full time employment, premium pay and shift differential for third shift. The potential to hire non-tribal members into the Associate position is not a guarantee that all of the positions will be filled in a timely manner. The retail market in our area is highly competitive with starting salaries and premium pay higher than our current starting salary of \$10.10 an hour. Two examples are; Fleet Farm's starting wage for an associate is \$10.00 an hour with premium pay of an additional \$2.00 per for weekends. At Woodman's a bagger will start out at \$10.00 an hour with the potential to earn \$12.00 an hour after six (6) months. A larger concern for Oneida Retail is the opening of a new grocer in the area. Meijer is opening this spring and they will need between 250- 300 new employees for their store across from Fleet Farm.

Response

The commenter describes the reasoning behind Oneida Retail's requested change to the Tobacco Ordinance. There are no recommended changes based on this comment.

Comment 2 – Manager Definition:

115.3-1(c) “Manager” means a person employed by the Nation to manage an Oneida retail location.

Michele Doxtator: However, there's one piece of the amendment that I do not agree with and that is the hiring of non-tribal members for the manager positions. Those are positions that we do not have a problem filling when those positions are posted. We can either fill them within or we do have quality candidates that are tribal members that can fill those positions. I do not agree with that amendment.

So I would suggest that for definitions under C. Manager shall mean an **enrolled member** of the Oneida Nation employed by Oneida Retail. Thank you.

Michele Doxtator (written): While I support the amendment to hire non-tribal members to fill vacant Retail Associate positions, I do not support the hiring of non-tribal members to fill vacant Manager, Assistant Manager or Retail Administration positions. Those positions are filled through the Human Resource Departments hiring process. Oneida Retail has had quality applications from the pool of Oneida Tribal Members to fill those positions. Oneida Retail Enterprise's recommendation under Definitions is to amend to the following: C. Manager shall mean an **enrolled member** of the Oneida Nation employed by Oneida Retail.

Response

The commenter states that she does not agree with the amendments to the Tobacco Law that allow for the hiring of non-tribal members for the manager positions, and particularly the definition of “manager” in section 115.3-1(c) of the Tobacco Law.

Although the Tobacco Law removed all references to any requirements of enrollment for employment, the removal of references to requirements of enrollment in the Tobacco Law does not allow for the hiring of non-tribal members for manager positions.

In the January 8, 1990, General Tribal Council meeting Debbie Powless moved that the General Manager's and all top administrative positions be held by enrolled tribal members. The motion was seconded, and the main motion carried.

Section III of the Personnel Policies and Procedures Employee Handbook describes the Nation's Oneida Preference and Indian Preference policy. The Indian Preference Policy states that the Oneida Nation exists to serve the needs of the Oneida people and therefore accords preference to enrolled members of the Oneida Nation where such preference is not otherwise prohibited. The Policy requires all General Managers and top administrative positions, as defined by HRD, to be

held by enrolled members of the Nation. In all other instances, the Nation applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled Oneida Tribal member;
- 2 Oneida Indians eligible for enrollment in the Oneida Tribe;
- 3 Documented first generation Oneida descendant;
- 4 Other Native American Indian;
- 5 Other (non-Indian).

On May 23, 2011, there was a General Tribal Council Meeting which approved personnel policies and procedures amendments to strengthen Indian preference in hiring.

Furthermore, the Oneida Nation Human Resources Department also has an Oneida Enrolled Tribal Member Requirements on Job Descriptions Work Standard which defines criteria used to determine positions within the structure of the Oneida Nation which shall be held by an enrolled member of the Oneida Nation in compliance with policies of the Nation, General Tribal Council Directives, Federal and State laws, and laws of the Nation.

The Work Standard developed by the Oneida Nation Human Resource Department (HRD) states that the following criteria shall be utilized to identify those positions which must be filled by an enrolled member of the Oneida Nation:

- 1 Any position that supervises at least one (1) other person, and/or
- 2 Any position that has to authority to hire, fire or discipline personnel, and/ or
- 3 Any position that works with and has access to confidential, proprietary or sensitive information, and/or
- 4 Any position that possesses key decision making responsibilities, and/or
- 5 Any position that has the authority to approve procedures binding upon personnel, and/or
- 6 Any position that has financial management responsibility over a Tribal business unit, and/or
- 7 Any position designated as “filled by Tribal member only” according to Tribal laws.

Due to Indian Preference and HRD’s Oneida Enrolled Tribal Member Requirements on Job Descriptions Work Standard, all manager positions at any Oneida retail locations must still be filled by an enrolled member of the Nation.

There are two possible ways the Legislative Operating Committee (LOC) can address this comment.

1. The LOC can choose to leave the law as it is currently written in this public meeting draft, and have the Tobacco Law void of any reference to enrollment requirements for employment as a manager in an Oneida retail location. This would leave the Indian Preference Policy and HRD’s work standards to cover the requirement of enrollment for employment in a manager position in an Oneida Retail location.

If the LOC decides to leave the draft as written, the LOC can also decide to remove the definition for manager because the term manager is being used in its ordinary and everyday sense.

2. The Legislative Operating Committee can also choose to have the Tobacco Law state that managers of Oneida Retail locations must be enrolled members of the Nation, and this can be done with the following change to the law:

115.3-1(c) “Manager” means an enrolled member of the Nation ~~person~~ employed ~~by the Nation~~ to manage an Oneida retail location.

Comments 3 & 4 - General:

David P. Jordan: I guess I would just like to add a provision in here where they could actually hire, 16, 17, and 18 year old’s if they get a working permit from their school. If that is a possibility. Either looking into it or checking out the options for that. And it goes back to what Michele said about the enrolled tribal member. I do believe it does state in here its Indian preference.

Michele Doxtator: Yup, Indian preference. Yup, the 16, 17, 18 year olds is not a part of the ordinance, it never had been. That was a change in the job description that happened about a month ago. So yes we are in a position to hire 16 and 17 year olds. They would be hired as youth workers. The GED requirement or the high school diploma would not be in effect because they are considered youth employees. We haven’t hired any yet, but we do have a few applications on file.

David P. Jordan: I just think that will help out with getting some employment. Thank you.

Response

Both of these comments discuss hiring persons sixteen (16) to eighteen (18) years old that are currently still in school as a means to combat the employment problem Oneida Retail is facing. It is confirmed that age requirements were in the job description and not the law, and that HRD changed the job description allowing Oneida Retail to hire persons sixteen (16) to eighteen (18) years old.

These comments also confirm that Indian Preference will be used in the hiring process for Oneida Retail.

There are no recommended changes based on these comments.

Title 1. Government and Finances - Chapter 60115
TOBACCO ORDINANCE
Oy&kwaw> Olihwa@ke
matters concerning tobacco

60115.1. Purpose and Policy	12	Products
60115.2. Adoption, Amendment, Repeal	13	60115.6. Restrictions on Sales
60115.3. Definitions	14	60115.7. Tribal Liability
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60115.5. Purchase of, Title to And Possession of Tobacco	16	

60115.1. Purpose and Policy

60115.1-1. *Purpose.* The purpose of this Lawlaw is to regulate the sale, possession and distribution of cigarettes within the Reservation.

60115.1-2. *Policy.* It is the policy of the TribeNation to ensure that all cigarette sales on the Reservation are conducted in a lawful manner.

60115.2. Adoption, Amendment, Repeal

60115.2-1. This Lawlaw was adopted by the Oneida Business Committee by resolution BC- 11-18-81-A and amended by resolution BC-10-10-07-A ~~and~~, BC-04-09-14-F, and BC _____.

60115.2-2. This Lawlaw 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.

60115.2-3. 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.

60115.2-4. In the event of a conflict between a provision of this Lawlaw and a provision of another law, the provisions of this Lawlaw shall control.

60115.2-5. This Lawlaw is adopted under authority of the Constitution of the Oneida Tribe of Indians of WisconsinNation.

60115.3. Definitions

60115.3-1. This section shall govern the definitions of words and phrases used within this Lawlaw. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Cigarette" ~~shall mean~~ means any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(b) "Electronic cigarette" ~~shall mean~~ means a device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. "Electronic cigarette" shall not include any device that is prescribed by a healthcare professional.

(c) "Manager" ~~shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin~~ means a person employed by the TribeNation to manage an Oneida retail location. ~~Tobacco outlet.~~

(d) "Reservation" ~~shall mean~~ means all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of WisconsinNation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any land added thereto pursuant to

57 federal law.

58 (e) “Stamped Cigarettes” ~~shall mean~~means cigarettes bearing valid Wisconsin tax
59 stamps.

60 (f) ~~“Tobacco Outlet”~~Oneida Retail Location ~~shall mean a Tribal~~means an Oneida Nation
61 retail sales business selling stamped cigarettes within the Oneida ~~Indian~~Nation
62 Reservation.

63 (g) “Employee” means a person employed by the Oneida Nation working in an Oneida
64 retail location.

65 ~~(g) “Tribal Employee” shall mean an enrolled member of the Oneida Tribe of Indians of~~
66 ~~Wisconsin employed to work in or manage a Tobacco outlet.~~

67 ~~(h) “Tribal Member” shall mean an enrolled member of the Oneida Tribe of Indians of~~
68 ~~Wisconsin.~~

69 ~~(i) “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.~~

70
71 60 (h) “Nation” means the Oneida Nation.

72
73 **115.4. ~~Tobacco Outlets~~Oneida Retail Locations**

74 ~~60115.4-1.~~ The ~~Tribe~~Nation shall maintain ~~tobacco outlets~~Oneida retail locations within the
75 Reservation as it deems necessary to provide adequate service to consumers of stamped
76 cigarettes.

77 ~~60115.4-2.~~ Each ~~tobacco Oneida retail location~~ ~~outlet~~ established hereunder shall be ~~a Tribal~~
78 ~~Tobacco Outlet~~ and shall be managed ~~and/or~~ operated ~~for~~by the ~~Tribe~~ by a Tribal
79 employeeOneida Nation.

80
81 **60115.5. Purchase of, Title to ~~A~~and Possession of Tobacco Products**

82 ~~60115.5-1.~~ The ~~Tribe~~Nation shall purchase stamped cigarettes from such suppliers as it may
83 choose and shall take title and possession on delivery to ~~an tobacco outlet~~Oneida retail location
84 on the Reservation (the title shall be subject to any purchase money security interest).
85 Possession of the stamped cigarettes (but not title) shall be transferred to the manager of the
86 tobacco outlet to be held for sale to the consumers. The ~~Tribe~~Nation shall retain title to stamped
87 cigarettes until sold to a consumer.

88
89 **60115.6. Restrictions on Sales**

90 ~~60115.6-1.~~ The ~~Tribe~~Nation shall be the exclusive retailer of cigarettes bearing the Wisconsin
91 Tribal Cigarette tax stamp within the Reservation. Furthermore, only the ~~Tribe~~Nation may claim
92 the tax refunds on cigarettes sold on the Reservation as provided for under state law.

93 ~~60115.6-2.~~ The ~~Tribe~~Nation reserves the right to restrict sales, volume, pricing and profit margin
94 of stamped cigarettes sold at a ~~tobacco outlet~~Oneida retail location.

95 ~~60115.6-3.~~ Cigarettes and electronic cigarettes shall not be sold to any person under the age of
96 eighteen (18). Cigarettes and electronic cigarettes for sale at ~~an tobacco outlet~~Oneida retail
97 location shall be on display behind a counter. No person other than an authorized ~~Tribal~~Oneida
98 Nation employee shall sell cigarettes and electronic cigarettes at ~~an tobacco outlet~~Oneida retail
99 location.

100 ~~60115.6-4.~~ No person may sell or offer for sale unstamped cigarettes on the Reservation.

101
102 **60115.7. ~~Tribal~~Liability**

103 ~~60115.7-1.~~ The ~~Tribe~~Nation shall be responsible for all risks to the stamped cigarettes and shall
104 carry full insurance against fire, theft, and other hazards, and such insurance shall include as a

105 beneficiary any person owning a purchase money security interest in the products to the extent
106 his interest may appear.

107

108 **~~60~~115.8 Violations**

109 ~~60~~115.8-1. All cigarettes acquired, owned, possessed, sold, or distributed in violation of this
110 ~~Law~~law are unlawful property and subject to seizure by any Oneida law enforcement officer.

111 (a) Violators subject to the jurisdiction of the ~~Tribe~~Nation shall be subject to a fine of not
112 more than ~~\$ten dollars (\$10)~~ per pack of un-stamped cigarettes to be issued by the Oneida
113 Police Department and paid to the ~~Tribe~~Nation.

114 (b) ~~Tribal~~Oneida Nation employees who violate this ~~Law~~law shall be subject to
115 disciplinary action in accordance with the ~~Tribe's~~Nation's laws, rules, and policies
116 governing employment, personnel policies and procedures.

117 ~~60~~115.8-2. All fines assessed under this section shall be paid within sixty (60) days of issuance
118 of the citation, unless the person files an appeal with the ~~Tribe's~~Nation's judicial system before
119 the fine is to be paid.

120

121 *End.*

122

123

124

125

126

Adopted - BC-3-15-76-A	Adopted - BC-11-18-81-A
Adopted - BC-9-7-77-B	Amended - BC-10-10-07-A
Adopted - BC-9-4-79-C	Amended - BC-04-09-14-F



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Tobacco Law Amendments

Business Committee Conference Room-2nd Floor Norbert Hill Center
December 15, 2016 12:39 p.m.

Present: Jennifer Webster, Tehassi Hill, Brandon Stevens, David P. Jordan, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jeremy Wheelock, Bonnie Pigman, Chad Wilson, Rae Skenandore, Nicole Steuber, Gene Schubert, Laura Manthe, Edward Delgado, Gary Wheelock, Trina Villegas, Michele Doxtator, Leyne Orosco, Danelle Wilson, Trish King.

Brandon Stevens : Ok we'll start this public meeting for this item, for Tobacco Ordinance at 12:39 p.m. This is a public meeting to gather feedback from the community regarding this legislative proposal. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room. It might not be back there, but Maureen has it.

Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday December 22, 2016.

In attendance from the LOC is:

Councilman David P. Jordan
Councilman Tehassi Hill
Councilwoman Jennifer Webster

The Tobacco Ordinance, they propose to amend the Tobacco Ordinance which would:

- Replace the term "tobacco outlet" with "Oneida retail location;"
- Eliminate the requirement that employees of Oneida retail locations be enrolled members of the Oneida Nation;
- Updating the language and ensure compliance with drafting style and formatting requirements; and
- Retitle the Tobacco Ordinance as a law in alignment with the Legislative Operating Committee's directive that all policies be classified as laws.
- To reformat the law to align with the approved reorganization of laws

I assumed Michele signed? And is there anyone else that wishes to speak on the behalf of the Tobacco Ordinance? We'll have Michele up first and then we'll note that Councilman David Jordan will be up next.

Michele Doxtator: Someone was a little taller than me. Oneida Retail has requested the change in the Tobacco Ordinance after careful consideration. This is not something we ask for lightly, it is something that we've tried to avoid for the last 18 months.

Even with the potential to hire non-tribal members into the Associate position, in the stores, is no guarantee that we'll be able to fill all of the positions. In our current market, those positions are hard to fill for everyone, not just us. I did have two examples of some of the things other retailers are doing. For instance:

Fleet Farm starts off their employees at \$10.00 dollars an hour as well, with a \$2.00 premium pay on the weekends. We don't offer any weekend pay. The other one is Woodman's. A bagger starts off at 10.00 dollars an hour, after six (6) months they move up to \$12.00. To get to \$12.00 an hour in our organization, requires action by General Tribal Council. So even if this amendment is approved it may not help us enough. There may be more things that we'll have to do to fill those positions.

However, there's one piece of the amendment that I do not agree with and that is the hiring of non-tribal members for the manager positions. Those are positions that we do not have a problem filling when those positions are posted. We can either fill them within or we do have quality candidates that are tribal members that can fill those positions. I do not agree with that amendment.

So I would suggest that for definitions under C.

C. Manager shall mean an **enrolled member** of the Oneida Nation employed by Oneida Retail.

Thank you.

Brandon Stevens: Alright, thank you Michele. David?

David P. Jordan: I guess I would just like to add a provision in here where they could actually hire, 16, 17, and 18 year old's if they get a working permit from their school. If that is a possibility. Either looking into it or checking out the options for that. And it goes back to what Michele said about the enrolled tribal member. I do believe it does state in here its Indian preference.

Michele Doxtator: Yup, Indian preference. Yup, the 16, 17, 18 year olds is not a part of the ordinance, it never had been. That was a change in the job description that happened about a month ago. So yes we are in a position to hire 16 and 17 year olds. They would be hired as youth workers. The GED requirement or the high school diploma would not be in effect because they are considered youth employees. We haven't hired any yet, but we do have a few applications on file.

David P. Jordan: I just think that will help out with getting some employment. Thank you.

Brandon Stevens: Ok if there's any more who would like to speak on behalf of the Tobacco Ordinance? Otherwise we will close this comment portion at 12:45 p.m.

With there being no more speakers registered, the public meeting for the Tobacco Law Amendments is now closed at 12:45 p.m.

Written comments may be submitted until close of business on Thursday December 22, 2016 .

-End of Meeting-

Tobacco Ordinance Public Meeting December 15, 2016

Oneida Retail requested the change in the Tobacco Ordinance after careful consideration of our needs to fully staff the Oneida One Stops, Smokeshops, Travel Center and the Oneida Market. Oneida Retail has made other attempts to recruit and retain employees in the stores such as increasing the starting salary, flexible scheduling, part time and full time employment, premium pay and shift differential for third shift.

The potential to hire non-tribal members into the Associate position is not a guarantee that all of the positions will be filled in a timely manner. The retail market in our area is highly competitive with starting salaries and premium pay higher than our current starting salary of \$10.10 an hour.

Two examples are; Fleet Farm's starting wage for an associate is \$10.00 an hour with premium pay of an additional \$2.00 per for weekends. At Woodman's a bagger will start out at \$10.00 an hour with the potential to earn \$12.00 an hour after six (6) months. A larger concern for Oneida Retail is the opening of a new grocer in the area. Meijer is opening this spring and they will need between 250 – 300 new employees for their store across from Fleet Farm.

While I support the amendment to hire non-tribal members to fill vacant Retail Associate positions, I do not support the hiring of non-tribal members to fill vacant Manager, Assistant Manager or Retail Administration positions. Those positions are filled through the Human Resource Departments hiring process. Oneida Retail has had quality applications from the pool of Oneida Tribal Members to fill those positions.

Oneida Retail Enterprise's recommendation under Definitions is to amend to the following;

C. Manager shall mean an **enrolled member** of the Oneida Nation employed by Oneida Retail.

Michele Doxtator

Oneida Retail Profit Manager



Legislative Operating Committee
 January 4, 2017

Hunting Fishing Trapping Law Amendments

Submission Date: 1/21/15	Public Meeting: 12/15/16
LOC Sponsor: Tehassi Hill	Emergency Enacted: no Expires: n/a

Summary: Amendments were requested to update and streamline the Law and to remove various requirements from the Law, instead authorizing the Environmental Resources Board and the Conservation Department to establish those requirements instead through the Administrative Rulemaking process; in order to reduce the frequency with which future amendments will be made to the law.

- 1/21/15 LOC:** Motion by Tehassi Hill to add the Hunting, Fishing and Trapping Law Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.
Note: Tehassi Hill will be the sponsor for this item.
- 3/18/15 LOC:** Motion by Jennifer Webster to defer the Hunting, Fishing and Trapping Law Amendments for a legislative analysis and fiscal impact statement; seconded by Fawn Billie. Motion carried unanimously.
- 4/8/15:** *Work meeting held.* Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Jacy A. Rasmussen, Eugene Schubert.
- 5/11/15:** *Work meeting held.* Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Eugene Schubert, Richard Baird (ERB Chair)
- 6/17/15:** *Work meeting held.* Attendees include Tani Thurner, Rebecca Webster, Terry J Metoxen, Eugene Schubert.
- 10/15/15:** *Work meeting held.* Attendees include Tehassi Hill, Krystal John, Laura Manthe, and Shad Webster.
- 10/21/15 LOC:** Motion by David P. Jordan to defer the Hunting, Fishing and Trapping Law Amendments for a legislative analysis; seconded by Fawn Billie. Motion carried unanimously.
- 8/2/16:** Update meeting held with sponsor, drafter, analyst, LRO director. Work meeting scheduled for 8/11/16.
- 8/11/16:** *Work meeting held.* Drafting attorney will provide updated draft to LRO Director in a few days.
- 10/10/16:** *Quarterly Update Meeting held.* Present: Tehassi Hill, Maureen Perkins, Tani Thurner, Clorissa Santiago, Krystal John. Draft is complete. Waiting for an updated analysis, which should be complete the week of 10/17/16.
- 11/16/16LOC:** Motion by David P. Jordan to approve the Hunting, Fishing, Trapping Law

Amendments public meeting packet and direct the LRO to hold a public meeting on December 15, 2016; seconded by Tehassi Hill. Motion carried unanimously.

12/15/16:

Public Meeting held.

Next Steps:

- Accept the public meeting comments and direct the LRO to make any revisions the LOC requested in the LOC prep meeting.
- Direct the LRO to create an adoption packet with updated materials.



TO: Legislative Operating Committee (LOC)
FROM: Krystal L. John, Oneida Law Office
DATE: January 4, 2017
RE: Hunting, Fishing and Trapping Amendments: Public Meeting Comment Review

On December 15, 2016, a public meeting was held regarding the proposed amendments to the Hunting, Fishing and Trapping law. This memorandum is submitted as a review of the oral comments received; no written comments were received within the public comment period. The public meeting draft with comments is attached for review.

Comment 1. Non-Tribal Hunters Hunting with State Licenses and Tags

406.4-4. *Lack of State Jurisdiction.* The Nation and the federal government have sole jurisdiction over the management and regulation of the Nation's natural resources. Accordingly, licenses, permits, tags and the like issued by the state have no legal effect on lands over which the Nation exercises its jurisdiction under Section 406.4-2.

Comments

Gary Wheelock – Oral Comment: I didn't really read the whole book on there but you know when you let the people that buy the non-tribal permits to hunt on our land and they can use their state tag. Are they able to, you know they can get a bunch of doe tags, they can. We only get that one. Are they able to fill all their tags with theirs?

Tehassi Hill – Oral Comment: That's a change that's happening with these amendments. That they get a tribal tag, so they would get the one bow and the one fire arm tag. Currently yeah they get a land use permit and get state licenses so, we're trying to clear that up to make sure that our tribal members have the same amount of licenses and availability to hunt as non-members that are using our land to hunt.

Response

Councilman Hill correctly identifies the revision that was made to this law to require non-Tribal hunters to receive the Nation's licenses and permits rather than using the state's licenses and tags. This will mean that a state license will have no effect on Tribal land and that non-Tribal hunters will receive the same amount of tags as Tribal hunters.

Comment 2. Regarding Setting Hunting Seasons and Specific Hunts

406.5-2. *Authority.* In addition to any other duties delegated to ERB and the Department under this law, jointly, ERB and the Department are hereby jointly delegated the rulemaking authority to: ... (e) Fix, shorten, extend or close seasons and hunting hours on any wildlife. Provided that ERB and the Department shall base the open season for the hunting of migratory birds on the Nation's agreement with the U.S. Fish and Wildlife Service.

Comments

Jeremy Wheelock – Oral Comment: This isn't in regards to anything that's on this list here. I had spoken with Lauren or Lori, her name was, at a previous meeting last month about using a bow to fill the gun tag during the hunting season. She said that was to be brought up at a different board. I'm not sure if she said she was going to be taking care of that.

Gary Wheelock – Oral Comment: I just wanted to speak on for like muzzle loading. You know I'm a muzzle loader myself but I'd rather see it shortened like we did that one year. A couple weeks anyway. I know a lot of people say, well you bow hunters get a lot more hunting in but. I don't know if a lot them hunt in this kind of weather. It's a lot easier to shoot deer with a gun you know and I know they are out there blasting away just to fill their tags. Shoot and kill anything. I was just wondering if they might just get is shortened like they used to have and just maybe a couple weeks of muzzle loading. Because I hear, somebody said, "Oh there's like 200 deer out there." and that don't sound like much to me at all. You know the count they take or whatever. I think their mostly getting slaughtered during muzzle loading, because they got a whole month and it's, like I said easier to get them with a muzzle loader. I know I'm probably the only one that, well I'm probably a couple of the ones, but I'd like to see maybe it get shortened. That's about all. I forgot to sign in back here.

Brandon Stevens – Oral Comment: We'll get your information, but yeah definitely something we can look at and I think we can look at some kind of figures from when that season was shortened.

Gary Wheelock – Oral Comment: It was just for one year, they had it.

Brandon Stevens – Oral Comment: Just one year? Ok, yeah well your comments are done and we'll take a look at that. Thanks Gary.

Tehassi Hill – Oral Comment: Also I heard some suggestions for a rule for early member only firearm hunt. Maybe start it a little bit early just for tribal members only. You know the weekend before or whatever. Another one was to authorize and set a date for a weekend youth hunt as well. Usually, I know the state usually does theirs I think sometime in October, which is the middle of October generally. And then kind of the same suggestion that Jeremy had about use the bow to fill your gun tag. That's it.

Response

All of these comments speak to requirements that have been transferred out of the law into the joint rulemaking authority of the Environment Resource Board and the Conversation Department. These comments have been forwarded to those parties as they finalize the development of their rules. I recommend the commenters watch for the draft of those proposed rules and attend that public meeting if they have further concerns based on the draft of the rules. The purpose of this transition is to allow seasons and specific hunting dates to be updated from time to time without requiring the full process required by the Legislative Procedures Act to amend a law.

Comment 3. Violation for Felony in Possession of a Hunting License or Permit

406.6-4. It is unlawful for any person to:

- (a) Provide false information or fail to report relevant information as requested by the Department, when applying for a license or permit; or
- (b) Aid another in fraudulently securing a license or permit.

Comment

Jeremy Wheelock – Oral Comment: I also have an issue with, there is a law violation its 28, where it says a convicted felon possessing a hunting or license permit can get a \$600 fine. I don't know if there's any way, because I have been pardoned through the tribe, approximately a year ago. I don't know if there is any way around that or if that law is able to be changed? I mean once you are able to, because you can gun hunt and you can have somebody else fill your tag as long as you're within yelling distance, but being that I'm a felon that affects me because supposedly, I'm not supposed to have a tag at all. So I would be fine just for walking through the woods and having a tag on me, according to the law that they have now. So to me it doesn't me to make sense to have a law like that. I mean it's a non-violent felony offense that I had eight years ago, that I've been pardoned for and if this goes through with able to use a bow to fill your gun tag, I don't see why a felon wouldn't be able to fill that gun tag using his bow. So them are the two things that I wanted to bring up. It didn't have anything to do with this, but I was told to come to this meeting to bring it up.

Brandon Stevens – Oral Comment: This is something definitely we can look at. It's something, it takes a person of experience to know what you are prohibited from doing. So we can definitely look at that. So what we do with these public hearing comments. We take the public hearing comments and we'll go back. The LRO, which is the legislative reference office, they'll go back and they'll type up recommendations on how we can address this. And as a public policy matter, if it's something we can do, we can change and we can change it within the law and that's something that...that's our process and so that brings it up to this body, in another meeting and we'll say alright we like that. We send it back for an analysis and then it goes through the process.

Jeremy Wheelock – Oral Comment: Right. I know the state has been doing it since 2012. Where they allow the citizens to fill their tags with their bow for gun season and the felons, they're allowed to have that gun tag for the state and other states also have that same law. So I don't know what's holding us back from doing it here.

Brandon Stevens – Oral Comment: Yeah definitely we don't want to restrict anything unless...we want to have more...especially within the laws, and not reduce our memberships ability to fill tags.

Response

This topic was one of the first items that was brought up when revisions to the law began. You will no longer find any reference to it being unlawful for a felon to possess a hunting license and/or permit in this law or the forthcoming rules. The rules will include violations for a felon in possession of a firearm however. This recognizes that felons may be able to obtain a bow-only license and permit, but will still be prohibited from any and all gun hunting. In regards to a Tribal pardon, a Tribal pardon will not be able to allow a felon to use a gun while hunting because that speaks to the state's criminal jurisdiction and the Tribe is not able to lift those requirements of release that were imposed upon the felon.

Comment 4. Designated Hunters

406.9-4(b) Designated hunters may only hunt for one (1) permittee per season and may fill the number of tags as authorized by the rules developed pursuant to this law.

Comment

Tehassi Hill – Oral Comments: Also to increase the designated hunter from one to two people to be able to hunt for.

Response

It is a policy call for the LOC to consider whether it would like to allow a Tribal member to be named a designated hunter for two (2) people, as opposed to be capped at one (1) as is in the current law and these amendments.

Comment 5. Hunting Group Size

406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people, but may not exceed ten (10) people legally hunting deer in a group...

Comment

Tehassi Hill – Oral Comment: Speaking with a lot of hunters to the hunting group size, like to see an increase. It's currently at 10. I think it used to be 15 or 16. So looking at possible amendments to change the hunting group size to increase it for the gun group hunting portion of it.

Response

It is a policy call for the LOC to consider whether it would like to amend the maximum group hunt size and if so to what size. Councilman Hill, the sponsor of this law, recommends adjusting the maximum group hunt size to sixteen (16).

Title 4. Environment and Natural Resources – Chapter 406
HUNTING, FISHING AND TRAPPING
Lutol@tha>, Latsyw@aha> O>kh@le Atlist@y< Tsi> Kayanl^hsla
Our laws concerning hunting, fishing and trapping

406.1.	Purpose and Policy	406.6.	Licenses and Permits
406.2.	Adoption, Amendment, Repeal	406.7.	General Regulations
406.3.	Definitions	406.8.	Wildlife Damage and Nuisance Control
406.4.	Jurisdiction	406.9.	Hunting
406.5.	Administration and Supervision	406.10.	Enforcement and Penalties

406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, respect both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of this law to provide:

(a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and

(b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-8-31-94-C, and amended by resolutions BC-4-24-96-A, BC-7-22-98-A, BC-09-13-00-D, BC-6-04-03-A, BC- 6-30-04-I, BC-7-13-05-E, BC-8-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A and _____.

406.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

406.2-3. 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.

406.2-4. 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.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. 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) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.

(b) “Barrel Length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.

(c) “ERB” means the Environmental Resources Board.

(d) “Daily Bag Limit” means the maximum number of a species of wildlife that a person may take during a twenty-four (24) hour period measured from midnight to

- 39 midnight.
- 40 (e) “Department” means the Oneida Conservation Department.
- 41 (f) “Dependent” means a person under the age of eighteen (18) who is the child or
42 step-child of a Tribal member or who lives with a Tribal member for more than half of
43 the year.
- 44 (g) “Designated Hunter” means the person named by a permittee as authorized to
45 harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.
- 46 (h) “Elder” means any person fifty-five (55) years of age or older.
- 47 (i) “Endangered or Threatened” means any species of wildlife within the reservation in
48 danger of extinction or likely to become in danger of distinction as recognized by ERB
49 and the Department and under federal law.
- 50 (j) “Fine” means a monetary punishment issued to a person violating this law and/or
51 the rules created pursuant to this law, which is payable to ERB or the Department within
52 the amount of time designated by the rules.
- 53 (k) “Fishing” means the taking, capturing, harvesting or attempting to take, capture or
54 harvest fish of any variety in any manner.
- 55 (l) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to
56 take, catch, harvest or attempting to harvest any wildlife.
- 57 (m) “License” means a written document issued by the Department granting authority to
58 engage in specific activities covered under this law and the rules created pursuant to this
59 law.
- 60 (n) “Loaded” means any firearm containing a cartridge in the chamber or any firearm
61 containing a cartridge or cartridges in the attached cylinder, magazine or clip.
- 62 (1) Muzzleloading firearms may not be considered loaded if a percussion cap is
63 not covering the percussion nipple or .209 primers are not in the receiver.
- 64 (2) Flint lock muzzleloading firearms may not be considered loaded if the flash
65 pan is cleaned of powder.
- 66 (o) “Nation” means the Oneida Nation.
- 67 (p) “Non-Indian” means a person who is not a member of any federally recognized
68 Indian tribe, band, or community.
- 69 (q) “Non-Member Indian” means a person who is a member of a federally recognized
70 Indian tribe, band or community other than this Nation.
- 71 (r) “Nuisance Animal” means any wildlife causing and one (1) or combination of the
72 following:
- 73 (1) Damage to property;
- 74 (2) Damage to or endangered or threatened species of wildlife and/or plants;
- 75 (3) Depredation of crops and/or livestock; or
- 76 (4) Health and/or safety risks posed to persons.
- 77 (s) “Penalty” means a punishment, other than a fine, imposed on a person violating this
78 law and/or the rules created pursuant to this law and may include, but is not limited to,
79 the confiscation of equipment and/or wildlife with return of the same at the discretion of
80 ERB, the imposition of a wildlife protection assessment (civil recovery value), revocation
81 and/or ineligibility for licenses and/or permits for a specified period of time, and
82 restitution.
- 83 (t) “Permit” means a document, stamp or tag authorizing a specific activity which is
84 issued by the Department to the holder of a license.

85 (u) “Protected Species” means any species of wildlife that is not endangered or
86 threatened, but for which ERB has established seasons, daily bag limits, or otherwise
87 restricted the taking of.

88 (v) “Reservation” means all the property within the exterior boundaries of the
89 reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat.
90 566, and any lands added thereto pursuant to federal law.

91 (w) “Rule” means a set of requirements, including citation fees and penalty schedules,
92 enacted by ERB and/or the Department in accordance with the Administrative
93 Rulemaking law based on authority delegated in this law in order to implement, interpret
94 and/or enforce this law.

95 (x) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including
96 placing or setting any net or other capturing device), capturing, harvesting, snaring or
97 trapping any wildlife, or attempting any of the foregoing.

98 (y) “Transport” means to bring or move from one place to another by means of
99 carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.

100 (z) “Trapping” means the taking of, or attempting to take, any wildlife by means of
101 setting or operating any device or mechanism that is designed, built, or made to close
102 upon, hold fast, snare or otherwise capture wildlife.

103 (aa) “Tribal Land” means any land within the reservation that is held in fee or in trust
104 and is owned by the Nation, a Tribal member, or a non-member Indian.

105 (bb) “Tribal Member” means an enrolled member of the Nation.

106 (cc) “Vehicle” means any self-propelled conveyance that derives power from a motor
107 and is used to transport persons or objects over land, including but not limited to, an
108 automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle,
109 moped or similar conveyance.

110 (dd) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian,
111 or any part or carcass of the same.¹

112 113 **406.4. Jurisdiction**

114 406.4-1. This law applies to the following persons:

115 (a) All Tribal members,

116 (b) All non-member Indians, and

117 (c) All non-Indians who:

118 (1) enter Tribal land, or

119 (2) apply for and receive a license and/or permit.

120 (d) All persons as otherwise permitted under federal law.

121 406.4-2. This law applies:

122 (a) within the boundaries of the reservation, and

123 (b) on lands held in trust for the Nation outside the boundaries of the reservation.

124 **406.4-4. *Lack of State Jurisdiction.*** The Nation and the federal government have sole
125 jurisdiction over the management and regulation of the Nation’s natural resources. Accordingly,
126 licenses, permits, tags and the like issued by the state have no legal effect on lands over which

¹ For additional information, please reference the definition of “domestic animal” in the Nation’s Domestic Animal law; any animal that does not fall into the “domestic animal” classification is considered “wildlife” for the purpose of this law.

127 the Nation exercises its jurisdiction under Section 406.4-2.²

128

129 **406.5. Administration and Supervision**

130 406.5-1. ERB and the Department, shall protect, manage, supervise, conserve, and enhance all
131 wildlife within the reservation. ERB and the Department shall jointly establish and maintain the
132 rules that are required to implement this law. The Department shall administer and enforce this
133 law and the rules created pursuant to this law.

134 406.5-2. *Authority.* In addition to any other duties delegated to ERB and the Department under
135 this law, jointly, ERB and the Department are hereby jointly delegated the rulemaking authority
136 to:

137 (a) Determine the types and number of licenses and permits that may be issued by the
138 Department, including how many licenses and permits that may be issued to non-Indian
139 hunters.

140 (b) Establish a fee schedule and application requirements and deadlines for obtaining
141 licenses and/or permits.

142 (c) Establish or amend daily bag limits and possession limits based on the supply of
143 wildlife, the needs of conservation, and the objective of achieving a fair allocation of the
144 harvest. Restrictions in such rules may include, but are not limited to, limits related to
145 gender, species, size, age, and maturity.

146 (d) Based on the monitoring and supervision of all wildlife, when necessary, declare any
147 species in need of protection a protected species or an endangered or threatened species,
148 and thereafter modify or revoke such declarations as may be appropriate.

149 (e) Fix, shorten, extend or close seasons and hunting hours on any wildlife. Provided that
150 ERB and the Department shall base the open season for the hunting of migratory birds on
151 the Nation’s agreement with the U.S. Fish and Wildlife Service.³

² **Gary Wheelock – Oral Comment:** I didn’t really read the whole book on there but you know when you let the people that buy the non-tribal permits to hunt on our land and they can use their state tag. Are they able to, you know they can get a bunch of doe tags, they can. We only get that one. Are they able to fill all their tags with theirs?
Tehassi Hill – Oral Comment: That’s a change that’s happening with these amendments. That they get a tribal tag, so they would get the one bow and the one fire arm tag. Currently yeah they get a land use permit and get state licenses so, we’re trying to clear that up to make sure that our tribal members have the same amount of licenses and availability to hunt as non-members that are using our land to hunt.

³ **Jeremy Wheelock – Oral Comment:** This isn’t in regards to anything that’s on this list here. I had spoken with Lauren or Lori, her name was, at a previous meeting last month about using a bow to fill the gun tag during the hunting season. She said that was to be brought up at a different board. I’m not sure if she said she was going to be taking care of that.

Gary Wheelock – Oral Comment: I just wanted to speak on for like muzzle loading. You know I’m a muzzle loader myself but I’d rather see it shortened like we did that one year. A couple weeks anyway. I know a lot of people say, well you bow hunters get a lot more hunting in but. I don’t know if a lot them hunt in this kind of weather. It’s a lot easier to shoot deer with a gun you know and I know they are out there blasting away just to fill their tags. Shoot and kill anything. I was just wondering if they might just get is shortened like they used to have and just maybe a couple weeks of muzzle loading. Because I hear, somebody said, “Oh there’s like 200 deer out there.” and that don’t sound like much to me at all. You know the count they take or whatever. I think their mostly getting slaughtered during muzzle loading, because they got a whole month and it’s, like I said easier to get them with a muzzle loader. I know I’m probably the only one that, well I’m probably a couple of the ones, but I’d like to see maybe it get shortened. That’s about all. I forgot to sign in back here.

Brandon Stevens – Oral Comment: We’ll get your information, but yeah definitely something we can look at and I think we can look at some kind of figures from when that season was shortened.

- 152 (f) Establish and/or modify areas' territorial limits, including bodies of water or parts
153 thereof, for any of the following, as may be necessary:
154 (1) the taking of wildlife;
155 (2) other specified areas, pursuant to the rules jointly developed by ERB and the
156 Department.
- 157 (g) Establish methods for checking persons into and out of areas specified under
158 subsection (f) above.
- 159 (i) Regulate the operation of boats upon reservation waters and the operation of vehicles
160 and aircraft used while hunting, fishing or trapping.
- 161 (j) Regulate and prescribe the means and methods by which wildlife may be taken,
162 including, but not limited to, the use of:
- 163 (1) bait,;
164 (2) decoys;
165 (3) hunting dogs
166 (4) traps;
167 (5) firearms;
168 (6) ammunition;
169 (7) laser sights; and
170 (8) night vision.
- 171 (k) Regulate the transportation, registration, tagging, and storage of all wildlife within the
172 reservation and the shipment or transportation of wildlife off the reservation.
- 173 (l) Prescribe safety and fire control measures and other rules as may be necessary for
174 range, forest or wildlife management, and/or for the safety and welfare of outdoor
175 recreationists, landowners, lessees, occupants and the Nation.
- 176 (m) Establish a process for retention, storage and disposal of items confiscated or turned
177 over to the Department in accordance with this law and the rules established pursuant to
178 this law.
- 179 (n) Establish a citation schedule that sets the monetary fines and penalties for violations
180 of this law and/or the rules established pursuant to this law.
- 181 (o) Create other rules as specifically directed throughout this law or as may be necessary
182 to implement this law. ERB shall provide notice of said rules both on ERB's website and
183 ERB and/or the Department shall develop a rule booklet, which the Department shall
184 provide to each person receiving a license or permit pursuant to this law.
- 185 406.5-3. *Department Wardens.* Department wardens shall enforce this law and corresponding
186 rules on the reservation, and, accordingly shall:
- 187 (a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that
188 the methods and equipment utilized are lawful.

Gary Wheelock – Oral Comment: It was just for one year, they had it.

Brandon Stevens – Oral Comment: Just one year? Ok, yeah well your comments are done and we'll take a look at that. Thanks Gary.

Tehassi Hill – Oral Comment: Also I heard some suggestions for a rule for early member only firearm hunt. Maybe start it a little bit early just for tribal members only. You know the weekend before or whatever. Another one was to authorize and set a date for a weekend youth hunt as well. Usually, I know the state usually does theirs I think sometime in October, which is the middle of October generally. And then kind of the same suggestion that Jeremy had about use the bow to fill your gun tag. That's it.

- 189 (b) Investigate reports of violations of wildlife and environmental laws, including, but
190 not limited to, this law and corresponding rules.
191 (c) Work to prevent persons from violating this law and/or the corresponding rules.
192 (d) Issue warnings and/or citations, which may include fines and/or penalties, for
193 violations of this law and/or the corresponding rules.

194 406.5-4. *Oneida Police Department*. Any Oneida Police Department officer, who observes a
195 violation of this law and/or corresponding rules, shall report such violation to the Department
196 and/or a Department warden. However, if immediate action is necessary to prevent imminent
197 danger to life or serious damage to property, the Oneida Police Department officer may issue a
198 warning or citation for the said violation(s) and/or prevent persons from committing the said
199 violation(s).

200

201 **406.6. Licenses and Permits**

202 406.6-1. *Sportsman License*.

203 (a) A sportsman license is required for all persons hunting, fishing or trapping on Tribal
204 land, except:

205 (1) Fishing is permitted without a sportsman license for Tribal members,
206 dependents, and non-member Indians whom are sixteen (16) years of age or
207 younger.

208 (2) Landowners and lessees and guests with the permission of the landowners or
209 lessees, may hunt and trap the following species on the property they own or
210 lease, year-round, without a sportsman license:

211 (A) coyote;

212 (B) fox;

213 (C) raccoon;

214 (D) woodchuck;

215 (E) rabbit;

216 (F) squirrel; and

217 (G) any nuisance animal that is not an endangered or threaten species and
218 is also not a regulated or protected species.

219 (b) Anyone born on or after January 1, 1973 shall successfully complete a state-certified
220 hunter safety course to be eligible for a sportsman license, except that:

221 (1) *Fishing Only Sportsman License*. A sportsman license may be issued which
222 permits fishing only. In such circumstances, successful completion of a state-
223 certified hunter safety course is not required and the Department shall internally
224 record such licenses as permitting fishing only.

225 (A) A person issued a “fishing only” sportsman license may not hunt or
226 trap, or be eligible to hunt or trap, until the licensee provides the
227 Department with proof of successful completion of a state-certified hunter
228 safety course.

229 (B) Any licensee holding a fishing only sportsman license may name a
230 designated hunter to fill the hunting or trapping permits that regularly
231 accompany a sportsman license based on the rules established pursuant to
232 this Law. For the requirements related to naming a designated hunter,
233 refer to section 406.9-4.

234 406.6-2. *Ceremonial and/or Feast Permit*. Tribal members may apply for a ceremonial and/or

- 235 feast permit to group hunt wildlife outside of the regular applicable seasons.
236 (a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for
237 antlerless deer.
238 (b) A ceremonial and/or feast permit may be issued to a group and/or organization
239 meeting each of the following requirements:
240 (1) At least eighty-five percent (85%) of the group and/or organization members
241 are Tribal members;
242 (2) The agent of the group/organization is a Tribal member;
243 (3) The occasion for the ceremonial and/or feast requiring the hunt out of season
244 is recognized by the Oneida community; and
245 (4) The hunt takes place on the reservation.
246 (c) All persons participating in the ceremonial and/or feast hunt shall be named hunters
247 on the ceremonial and/or feast permit.
248 (d) The agent of the group ceremonial and/or feast hunt shall notify the Department
249 warden of the time and place where the hunt will take place no later than twenty-four (24)
250 hours prior to the hunt. The Department warden may monitor any portion, or the entirety,
251 of the group ceremonial and/or feast hunt.
252 406.6-3. *Other Permits, Tags and Stamps.* In accordance with this law and corresponding rules,
253 the Department may issue permits authorizing a person to engage in specific hunting, fishing
254 and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-
255 2.
256 406.6-4. It is unlawful for any person to:
257 (a) Provide false information or fail to report relevant information as requested by the
258 Department, when applying for a license or permit; or
259 (b) Aid another in fraudulently securing a license or permit.⁴

⁴ **Jeremy Wheelock – Oral Comment:** I also have an issue with, there is a law violation its 28, where it says a convicted felon possessing a hunting or license permit can get a \$600 fine. I don't know if there's any way, because I have been pardoned through the tribe, approximately a year ago. I don't know if there is any way around that or if that law is able to be changed? I mean once you are able to, because you can gun hunt and you can have somebody else fill your tag as long as you're within yelling distance, but being that I'm a felon that affects me because supposedly, I'm not supposed to have a tag at all. So I would be fine just for walking through the woods and having a tag on me, according to the law that they have now. So to me it doesn't me to make sense to have a law like that. I mean it's a non-violent felony offense that I had eight years ago, that I've been pardoned for and if this goes through with able to use a bow to fill your gun tag, I don't see why a felon wouldn't be able to fill that gun tag using his bow. So them are the two things that I wanted to bring up. It didn't have anything to do with this, but I was told to come to this meeting to bring it up.

Brandon Stevens – Oral Comment: This is something definitely we can look at. It's something, it takes a person of experience to know what you are prohibited from doing. So we can definitely look at that. So what we do with these public hearing comments. We take the public hearing comments and we'll go back. The LRO, which is the legislative reference office, they'll go back and they'll type up recommendations on how we can address this. And as a public policy matter, if it's something we can do, we can change and we can change it within the law and that's something that...that's our process and so that brings it up to this body, in another meeting and we'll say alright we like that. We send it back for an analysis and then it goes through the process.

Jeremy Wheelock – Oral Comment: Right. I know the state has been doing it since 2012. Where they allow the citizens to fill their tags with their bow for gun season and the felons, they're allowed to have that gun tag for the state and other states also have that same law. So I don't know what's holding us back from doing it here.

Brandon Stevens – Oral Comment: Yeah definitely we don't want to restrict anything unless...we want to have more...especially within the laws, and not reduce our memberships ability to fill tags.

260 406.6-5. Except as provided under sections 406.6-1(b)(1)(A), 406.9-4 and 406.9-6, licenses
261 and/or permits are not transferable and may not be altered, defaced or lent to or from another
262 person, any may not be used by any person other than the person to whom the license and/or
263 permit is issued.

264 406.6-6. *Disabled Hunter Permits.* The Department may issue a disabled hunter permit to any
265 person who is physically disabled, upon a showing of medical verification of a physical
266 disability. Disabled hunters shall display the disabled hunter permit sticker in a manner and
267 location as required by the Department. A disabled hunter permit authorizes a person to hunt:

- 268 (a) within fifty (50) feet of the center of a road; and/or.
- 269 (b) from within a vehicle, provided that the vehicle may not be moving and the engine of
270 the vehicle may not be running.

271 406.6-7. *Denial of a License or Permit.*

- 272 (a) The Department may decline to issue a license and/or permit to an applicant if:
 - 273 (1) The applicant has unpaid fines, civil assessments, other fees and/or restitution
274 owed because of a violation of this law and/or corresponding rules.
 - 275 (2) At any time and for any reason, the Department determines that issuing the
276 license and/or permit poses a risk to the health, safety, and/or welfare of the
277 Nation, to natural resources on the reservation, or to any persons. There is a
278 rebuttable presumption that an applicant poses such a risk under the following
279 circumstances:
 - 280 (A) At the time of the request, the applicant's hunting, fishing or trapping
281 license, permit or related privileges are suspended or revoked in any
282 jurisdiction.
 - 283 (B) Within three (3) years of the request, the applicant has repeatedly
284 and/or egregiously done any one (1) or more of the following:
 - 285 (i) violated this law and/or corresponding rules and/or the
286 hunting, fishing, or trapping laws and regulations of other
287 jurisdictions;
 - 288 (ii) violated other laws or rules of the Nation while engaged in
289 hunting, fishing or trapping activities; or
 - 290 (iii) demonstrated poor judgment, disregard for safety or
291 unsportsmanlike behavior while hunting, fishing or trapping;
292 including while interacting with other sportsmen or with wardens,
293 of this jurisdiction or any other.
 - 294 (C) At any time, the applicant has been found guilty of imposing or
295 threatening to impose great bodily harm on another. For the purposes of
296 this section, great bodily harm means bodily injury which creates a
297 substantial risk of death, or which causes serious permanent
298 disfigurement, or which causes a permanent or protracted loss or
299 impairment of the function of any bodily member or organ or other serious
300 bodily injury.
- 301 (b) Any person who has had a license or permit denied in accordance with section 406.6-
302 7(a) may appeal the Department's decision by requesting a hearing before ERB pursuant

303 to section 406.10-4.

304

305 **406.7. General Requirements**

306 406.7-1. Persons may not:

307 (a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission
308 from the landowner, lessee or occupant.

309 (b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on
310 the reservation's lands and waters.

311 (c) Cause damage to land or property belonging to another, including but not limited to,
312 the Department's decoys placed for law enforcement purposes by Department wardens or
313 other law enforcement officers, and signs that give notice of a hunting and/or trespass
314 restriction.

315 (d) Carelessly waste wildlife. Persons hunting, trapping or fishing shall make every
316 reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall
317 comply with section 406.7-1(a).

318 (e) Knowingly disturb any den, nest, lodge, hut, dam or house that wildlife may build to
319 shelter themselves and their young.

320 (f) No person may take, pursue, injure, or harass small game while on or in its nest or
321 den, or remove any eggs or young except as may be approved in advance by the
322 Environmental Resource Board for activities which may include, but are not limited to,
323 normal agricultural or horticultural practices or wildlife research practices.

324 (g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical
325 device or stupefying substance or agent.

326 (h) Take another person's wildlife or disturb another person's hunting, fishing, or
327 trapping equipment without permission; or otherwise interfere with the lawful hunting,
328 fishing, or trapping of another person.

329 (i) Stock or possess any live wildlife on the reservation without a permit.

330 (j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the
331 reservation or into reservation waters without a permit.

332 (k) Use in a reckless manner any device typically used for the harvesting of wildlife,
333 including but not limited to, firearms, bows, traps and knives.

334 (l) Shoot firearms, or place or operate any traps, except live traps, within one hundred
335 (100) yards of any building structure, unless the owner-occupant, lessee or tenant has
336 given permission.

337 (m) Use a gas powered motorboat on the Nation's waters, except for the Department's use
338 for law enforcement and conservation purposes.

339 (n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where
340 hunting or trapping is expressly prohibited by the Nation's laws or rules.

341 (o) Sell or purchase wildlife that was harvested on the reservation, except as may be
342 expressly allowed by this law and corresponding rules.

343 (1) Under no circumstances may trading, gifting, or sharing of wildlife for
344 traditional or ceremonial purposes may not be considered a violation of this
345 section.

346 (p) Refuse to obey a Department warden's lawful order.

347 (q) Inflict or threaten to inflict bodily harm upon a Department warden. For the purposes
348 of this law, "bodily harm" means physical pain or injury or any impairment of the

349 physical condition.

350 406.7-2. *Possession, Registration and Transportation of Carcasses.* No person may hunt, trap,
351 possess or transport any wildlife unless he or she possesses the appropriate license and any
352 required permit, including tags, for harvesting and/or possessing such wildlife.

353 406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle
354 on a roadway, may retain possession of the said deer, provided that the person shall have the deer
355 tagged by the Department or the Department’s designee.

356 406.7-4. *Carcass Tags.* Except as otherwise provided in this law and corresponding rules, any
357 person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass
358 tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such
359 manner as ERB and the Department shall jointly establish in its the rules. No person may
360 possess or transport harvested wildlife that is not properly tagged in accordance with this law and
361 corresponding rules.

362 406.7-5. *Health Advisory.* ERB and the Department shall ensure that all hunting and fishing
363 rule booklets contain a warning stating that fish caught in Duck Creek, as well as ducks, geese
364 and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health
365 defects, that such risks are greatest for women and children, and that detailed information about
366 PCBs is available from the Department upon request.

367

368 **406.8. Wildlife Damage and Nuisance Control**

369 406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land
370 under their control and their associated structures, provided that landowners and lessees shall
371 satisfy all requirements of this law and corresponding rules , including, but not limited to the
372 permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not
373 be relocated to Tribal lands without express written authorization from the Department, and,
374 similarly, may not be relocated to private property without express written authorization from the
375 landowner.

376 406.8-2. *Nuisance Animal Removal Permit.* A nuisance animal removal permit is required to
377 hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

378 (a) In order to be eligible for a nuisance animal removal permit, the applicant shall
379 demonstrate that:

380 (1) He or she has the authority to control hunting and trapping access to the lands
381 subject to the nuisance or being damaged as well as any contiguous lands. In
382 circumstances where the contiguous lands are not owned or leased by the
383 applicant, the applicant shall demonstrate authority to control hunting and
384 trapping access to the contiguous lands by providing the Department with the
385 property owner’s or lessor’s written consent;

386 (2) He or she either is employing or agrees to employ, reasonable alternative
387 abatement methods to removal;

388 (3) The wildlife sought to be removed is a nuisance animal and reasonable
389 alternative abatement methods either have been or are reasonably likely to be
390 unsuccessful;

391 (4) He or she has complied with this law and corresponding rules and the
392 conditions of any previously-issued nuisance animal removal permit, at a
393 minimum, for the previous twelve (12) months from the date he or she applies for
394 the permit;

395 (5) The nuisance animal removal permit applied for does not conflict with any
396 provisions of the Nation’s agreement with the United States Fish and Wildlife
397 Service regarding the taking of birds classified as migratory under 50 CFR 10.13.

398 (b) Each permittee shall keep a record of all permit activities and shall provide the said
399 permit record to the Department within ten (10) days of the permit’s expiration. At a
400 minimum, the permittee shall include in the record any agents assigned under section
401 406.8-4 and the total number of nuisance animals removed pursuant to the permit,
402 provided that, the Department may name additional items required to be included in the
403 record. All permit records may be inspected by the Department at any time.

404 (c) The permittee shall return all unused permits, including carcass tags, to the
405 Department within ten (10) days of the permit’s expiration.

406 406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is
407 not required if the nuisance animal would otherwise be exempt from the license and permit
408 requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically
409 not required in following circumstances:

410 (a) *Beaver.* A nuisance animal removal permit is not needed for a landowner, lessee, or
411 an authorized agent to hunt or trap beaver(s) that are nuisance animals, or to remove a
412 beaver dam. However, only the landowner and the Department may set traps on a beaver
413 dam on Tribal land; this privilege may not be transferred to an agent.

414 (b) *Emergencies.* Nuisance animals for which a nuisance animal removal permit is
415 otherwise required, may be removed without the required permit if such removal is
416 necessary to maintain a person’s immediate health and safety.

417 (1) Persons taking a nuisance animal under emergency circumstances shall report
418 the emergency taking to the Department on the required form available with the
419 Department.

420 (2) The Department shall conduct an investigation into the validity of the alleged
421 emergency circumstance. If the investigation provides clear and convincing
422 evidence that the taking was not in fact required due to a legitimate threat to a
423 person’s immediate health and safety, the Department shall classify the taking an
424 unlawful taking without a permit and shall take the appropriate corrective
425 measures.

426 406.8-4. *Designated Agents.* A landowner may utilize an agent to remove a nuisance animal
427 pursuant to the provisions of this law. If the requirements of this law and corresponding rules are
428 satisfied, the landowner’s nuisance animal removal permit and associated carcass tags, if
429 applicable, may be utilized by the landowner’s assigned agent.

430 (a) In order for an agent to be assigned to remove a nuisance animal, the landowner shall
431 ensure that the following conditions are met:

432 (1) The agent shall have a valid license for hunting or trapping that nuisance
433 animal’s species;

434 (2) The landowner shall grant written permission to the agent specifically
435 identifying the following:

436 (A) The location of the nuisance animal where the removal activities are
437 sought to occur;

438 (B) An authorized time period for the removal of the nuisance animal; and

439 (C) Any other information as may be required by the rules established
440 pursuant to this law.

441 (b) The Department may limit the number of persons permitted to assist in a removal.

442 (c) The landowner or lessee permittee may not charge any assigned agent any form of
443 fee.

444 406.8-5. *Annual Migratory Bird Report.* Persons killing crows, cowbirds, grackles, and red-
445 winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3
446 Migratory Bird Permit Office by January 31st for all such takings occurring within the previous
447 January to December.

448 406.8-6. *Department Warden's Access.* Any landowner or lessee pursuing the removal of a
449 nuisance animal shall grant Department wardens free and unrestricted access to the premises on
450 which the said removal is being conducted, is anticipated to be conducted, or has been
451 conducted. Further, the landowner or lessee, and the landowner's agent, if applicable, shall
452 promptly furnish any information requested by a Department warden relating to the said
453 removal.

454 406.8-6. *Retaining Fur, Carcasses and other Parts of Nuisance Animals.* The following applies
455 to nuisance animals removed in accordance with this section:

456 (a) The permittee and each agent assigned under section 406.8-4 may retain no more than
457 one (1) deer removed pursuant to a nuisance animal removal permit. The Department
458 shall distribute or dispose of any deer that are not so retained by offering them to Tribal
459 members in the following order:

- 460 (1) Elders;
461 (2) Disabled persons; and
462 (3) Any other interested persons.

463 (b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken
464 pursuant to a nuisance animal removal permit, the permittee shall be explicitly and
465 separately authorized by the permit to retain the wildlife and to sell the wildlife.

466 (c) Furs from nuisance animals which did not require a nuisance animal removal permit
467 in order to be removed, may be retained by a landowner, lessee or assigned agent without
468 a permit. Provided that the landowner, lessee or assigned agent shall have a valid license
469 and/or permit in order to commercialize in, sell, trade, ship or transport any wildlife,
470 except that any squirrels' parts retained may be sold during the closed season.

471

472 **406.9. Hunting**

473 406.9-1. *General Firearm and Archer Restrictions.* Persons may not:

474 (a) Hunt using any weapon other than a firearm, air rifle, bow or crossbow that is
475 authorized under this law and corresponding rules for the taking of a particular species.

476 (b) Discharge a firearm, air rifle, bow or crossbow:

477 (1) Into reservation lakes, reservoirs, or any area designated for public use
478 pursuant to the Public Use of Tribal Land law, except for the purpose of hunting
479 migratory birds during established seasons, in accordance with the rules created
480 pursuant to this law;

481 (2) Across any roadway; or

482 (3) Within one hundred (100) yards of any structure, unless the owner-occupant,
483 lessee or tenant has granted express permission.

484 (c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

485 406.9-2. *General Hunting Restrictions.* Persons may not, unless specifically authorized by a
486 permit, if applicable, do any of the following:

- 487 (a) Hunt with the use of aircraft;
488 (b) Hunt within fifty (50) feet of the center of a paved road;
489 (c) Hunt from a vehicle;
490 (d) Hunt while under the influence of alcohol or a controlled substance;
491 (e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light
492 to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon,
493 fox, or any other authorized unprotected species;
494 (f) Shine between the hours of 10:00 p.m. and sunrise during the months of September,
495 October, November and December; during all other months, shining is allowed at any
496 hour;
497 (g) Hunt in a party of more than ten (10) persons;
498 (h) Hunt with, or possess while hunting:
499 (1) Any firearm for which the possession is unlawful under Wisconsin or Federal
500 law;
501 (2) Slugs, except that a person may possess slugs during deer firearm season if he
502 or she also possesses the required associated permit;
503 (3) A handgun with a barrel length of less than five (5) inches;
504 (4) A concealed handgun without a valid permit from the State of Wisconsin;
505 and/or
506 (5) Any of the following without a valid federal permit:
507 (A) A shotgun that has a barrel length of less than eighteen (18) inches or
508 an overall length of less than twenty-six (26) inches;
509 (B) A rifle that has a barrel length of less than sixteen (16) inches or an
510 overall length of less than twenty-six (26) inches;
511 (C) A fully-automatic firearm;
512 (D) Any mechanism designed to muffle, silence or minimize the report of
513 any firearm.
- 514 406.9-3. *Accidents.* Any person, who discharges a firearm, bow, or crossbow while hunting
515 and injures another person, shall render or attempt to obtain necessary medical assistance,
516 provide the injured person with his or her name and contact information including address, and
517 report the accident to either the Department or the Oneida Police Department as soon as possible.
- 518 406.9-4. *Designated Hunters.* A permittee may name a designated hunter to hunt, fish, or trap
519 on behalf of the permittee in the event that the permittee is physically or legally unable to take
520 pursuant to his or her own permit, provided that, the designated hunter shall provide his or her
521 name and contact information to the Department along with a signed statement from the original
522 permittee naming the designated hunter. The designated hunter shall receive the Department's
523 approval of the designation before using the permits of the original permittee.
- 524 (a) To be eligible to be named a Designated Hunter, the named person shall:
525 (1) Possess a valid hunting license;
526 (2) Be eligible for the permits for which the person is named the designated
527 hunter; and
528 (3) Meet any other requirements of the rules created pursuant to this law.
529 (b) Designated hunters may only hunt for one (1) permittee per season and may fill the

530 **number of tags as authorized by the rules developed pursuant to this law.⁵**
531 (c) Any wildlife taken by a designated hunter remains the property of the original
532 permittee; the designated hunter shall transfer any wildlife taken by designation to the
533 original permittee's possession as soon as practicable following the taking.

534 406.9-5. *Age Restrictions.*

535 (a) Persons between the ages of twelve (12) and seventeen (17) years old may only hunt
536 if they have obtained the required license and permits and are under the immediate
537 supervision of a parent, legal guardian or a responsible adult to which a parent or legal
538 guardian has delegated his or her supervisory responsibilities. Adults accompanying
539 youth hunters pursuant to this section shall remain within voice and sight contact of the
540 youth hunters at all times.

541 (b) Tribal members, descendants⁶, non-member Indians and dependents aged ten (10) or
542 eleven (11) years old may hunt if they have a mentor present while hunting and have
543 obtained any required licenses and permits.

544 (c) Tribal members, descendants⁷, non-member Indians and dependents having less than
545 ten (10) years of age may accompany a mentor while hunting, provided that youth under
546 the age of ten (10) may not use a weapon during the hunt.

547 (d) The following limitations apply to youth hunters and their mentors hunting pursuant
548 to this section:

549 (1) Only one (1) weapon may be possessed jointly between the mentor and his or
550 her mentee(s);

551 (2) Mentors may mentor a maximum of two (2) youth hunters at the same time;
552 and

553 (3) The mentor shall remain within an arm's grasp of each youth hunter at all
554 times.

555 (e) In order to be eligible to be a mentor, the person shall:

556 (1) Be at least eighteen (18) years old;

557 (2) Have a valid license and any required permits; and

558 (3) Be the youth hunter's parent or legal guardian or have permission from the
559 hunter's parent or legal guardian to be the hunter's mentor.

560 406.9-6. *Deer Hunting Parties.* **A deer hunting party consists of a minimum of two (2) people,**
561 **but may not exceed ten (10) people legally hunting deer in a group.⁸** Any member of a deer
562 hunting party may harvest deer on behalf of another member of the deer hunting party under the
563 following circumstances:

564 (a) At the time and place of the harvest, the member of the hunting party who harvests
565 the deer shall be in contact with the member of the hunting party on whose behalf the
566 deer was harvested. For the purpose of this section, contact means visual or voice contact
567 without the aid of any mechanical or electronic amplifying device other than a hearing

⁵ **Tehassi Hill – Oral Comments:** Also to increase the designated hunter from one to two people to be able to hunt for.

⁶ Requirements for descendency are determined by the Oneida Trust Enrollment Committee.

⁷ See footnote 2.

⁸ **Tehassi Hill – Oral Comment:** Speaking with a lot of hunters to the hunting group size, like to see an increase. It's currently at 10. I think it used to be 15 or 16. So looking at possible amendments to change the hunting group size to increase it for the gun group hunting portion of it.

568 aid. Hand radios are permitted, however may not be used as an acceptable means of
569 contact as required in this section.

570 (b) The member of the hunting party for whom the deer was harvested shall possess a
571 valid, license and carcass tag for the deer.

572 (c) The member of the hunting party who harvests the deer shall ensure that a valid
573 carcass tag is attached to the deer by a member of the hunting party prior to field dressing
574 and moving the deer; the member of the hunting party that harvests the deer may not
575 leave said deer unattended until it has been properly tagged.

576

577 **406.10. Enforcement and Penalties**

578 406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the
579 corresponding rules to the Department or the Oneida Police Department. The department
580 receiving information regarding violations shall keep the information confidential.

581 406.10-2. *Licenses/Permits Suspension, Revocation and/or Ineligibility.* The Department may
582 suspend, revoke or deem a party ineligible for a license or permit as a penalty for committing any
583 one (1) of the following acts or any combination thereof:

584 (a) Has committed an act causing any of his or hers hunting, fishing or trapping licenses,
585 permits or privileges to be suspended or revoked by any other jurisdiction, whether it be
586 tribal, state or federal, where, for the purposes of this section, a person's right to possess
587 firearms is considered a hunting privilege;

588 (b) Provides false information, or assists other in providing false information, when
589 applying for a license or permit;

590 (c) Fails to timely pay a fine or abide by a penalty assessed against him or her as a
591 consequence for violating the provisions of this law and/or the corresponding rules;
592 and/or

593 (d) Violates this law and/or the corresponding rules and the violation is one for which the
594 citation schedule identifies suspension, revocation, or ineligibility of a license or permit
595 as an available penalty.

596 406.10-3. *Warning and Citations.* Department wardens may issue verbal and/or written
597 warnings and/or citations to any person found to be in violation of this law and/or the
598 corresponding rules. The Department shall ensure that all warning and citations identify the
599 relevant violation and, if applicable, the fine and/or penalties imposed as a consequence of the
600 violation.

601 406.10-4. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision
602 of the Department related to a license and/or permit may appeal such action by requesting a
603 hearing before ERB.

604 (a) In order to be considered timely, the person contesting an action of the Department
605 shall file the appeal within ten (10) business days of the date of the Department's action.
606 ERB may not hear appeals that are not timely filed.

607 (b) ERB shall schedule a hearing for all timely filed appeal, and shall ensure that such
608 hearings are held within thirty (30) calendar days from the date the appeal was filed.

609 (c) ERB shall conduct hearings in accordance with its bylaws and any other applicable
610 regulations, standard operating procedures, rules, laws or policies governing the Nation's
611 administrative hearings.

612 (d) ERB's determination related to a license and/or permit is final; no further review is
613 available.

614 406.10-5. *Contested Action Hearings*. All citations issued pursuant to this law shall include a
615 prehearing date set for the next scheduled monthly prehearing date that is at least thirty (30)
616 calendar days after the citation was issued. Persons wishing to contest a citation shall appear at
617 the prehearing, at which time the Environmental Resource Board shall accept pleas which either
618 contest or admit committing the act for which the citation was issued. For all persons entering a
619 plea contesting the fact that they committed the act for which a citation was issued, ERB shall
620 schedule a hearing as expeditiously as possible, provided that ERB shall schedule all hearings
621 within ninety (90) days of the date of the prehearing. In addition to scheduling requested
622 hearings, ERB may also make conditional orders at the prehearing which are effective until the
623 matter is resolved.

624 (a) ERB shall conduct prehearings and hearings in accordance with its bylaws and any
625 other applicable regulations, standard operating procedures, rules, laws or policies
626 governing the Nation's administrative hearings.

627 (b) *Community Service*. Community service may be substituted for fines at ERB's
628 discretion, provided that, if so substituted, ERB shall use the rate of one (1) hour per ten
629 dollars (\$10.00) of the fine.

630 (c) All fines and penalties issued by citations are payable to ERB or its designee, the
631 proceeds of which ERB shall contribute to the Nation's general fund.

632 (d) ERB may pursue payment from parties who have failed to make the required
633 payments through the garnishment process contained in the Garnishment law and/or by
634 attaching a Tribal member's per capita payment pursuant to the Per Capita law.

635 (e) Any person wishing to contest ERB's determination related to a contested citation
636 may appeal the applicable determination to the Judiciary's Court of Appeals in
637 accordance with the Rules of Appellate Procedure.

638
639 *End.*

~~640~~
643 Adopted - BC-8-31-94-C
644 Adopted - BC-4-24-96-A
645 Adopted - BC-07-22-98-A
646 Amended - BC-09-13-00-D
647 Amended - BC-6-04-03-A
648 Amended - BC-6-30-04-I
649 Amended - BC-7-13-05-E
650 Amended - BC-8-29-07-F
651 Amended - BC-06-24-09-E
652 Amended - BC-08-26-10-I
653 Emergency Amended - BC-06-22-11-H (Expired)
654 Amended - BC-12-14-11-E
655 Amended - BC-05-22-13-A



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING
Hunting, Fishing and Trapping Law Amendments**
Business Committee Conference Room-2nd Floor Norbert Hill Center
December 15, 2016 12:15 p.m.

Present: Jennifer Webster, Tehassi Hill, Brandon Stevens, David P. Jordan, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jeremy Wheelock, Bonnie Pigman, Chad Wilson, Rae Skenandore, Nicole Steuber, Gene Schubert, Laura Manthe, Edward Delgado, Gary Wheelock, Trina Villegas, Michele Doxtator, Leyne Orosco, Danelle Wilson, Trish King.

Brandon Stevens : It is 12:15 p.m., we'll call this public meeting to order. The date is Thursday, December 15. This is a public meeting for, we have Budget Management and Control Law up first but we have some individuals I believe, community members. I assume Jeremy you want to talk about the Hunting, Fishing and Trapping Law? Ok. We'll move that to the top of the order and then well go to Bonnie, is Per Capita Law Amendments, I assume? Those are the people we have signed up to speak today. So we'll start with the Hunting, Fishing, and Trapping Law. This is the Legislative Operating Committee. This is four of the five LOC members. Fawn Billie is the other one.

So we host these public meetings to gather feedback from the community regarding the legislative proposals.

All persons who wish to present oral testimony, need to register on the sign in sheet. We got that here.

Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business day on Thursday December 22, 2016.

In attendance we have:

Councilman David Jordan
Councilman Tehassi Hill
Councilwoman Jennifer Webster

We will begin today's public meeting with the Hunting, Fishing, and Trapping Law Amendments. Let's see, I only got the thing for Budget Management and Control. We're talking about the public... let's see because this one is the breakdown of... Thank you. This proposal for the amendment to the existing law which would:

- Remove many of the specific and detail oriented aspects of the hunting, fishing and trapping regulations from the law and move them into the rule handbook which the Environmental Resource Board and Conservation Department are delegated the joint rulemaking authority to create.
- Clarify that the state of Wisconsin has no jurisdiction related to hunting, fishing and trapping matters within the Reservation and create a requirement that non-Tribal members be licensed through the Nation to hunt within the Reservation. Previously non-tribal members used their state license and requested a land use permit.
- Change the age requirements related to hunting. For hunters twelve (12) to seventeen (17); a parent, guardian or authorized adult must be present. Only tribal members, descendants, non-member Indians and dependents may hunt between the ages of ten (10) to eleven (11) and a mentor is required and a mentor is required to accompany the youth hunter with a maximum of one weapon shared between the youth and mentor.
- Allow minors under the age of ten (10) to hunt with a mentor, provided that the weapon may not be used.
- Clarify that suspension, revocation or a future ineligibility for a license or permit is available under penalty of this law.
- Updates the Environmental Resource Board's hearing process for contested actions under this law.

We will establish a time line of 5 minutes maximum for any oral testimony that is heard today and any written comments can be submitted through the process that is on the public meeting notice.

First up I will call Jeremy. If you could come to the mic:

Jeremy Wheelock: This isn't in regards to anything that's on this list here. I had spoken with Lauren or Lori, her name was, at a previous meeting last month about using a bow to fill the gun tag during the hunting season. She said that was to be brought up at a different board. I'm not sure if she said she was going to be taking care of that. I also have an issue with, there is a law violation its 28, where it says a convicted felon possessing a hunting or license permit can get a \$600 fine. I don't know if there's any way, because I have been pardoned through the tribe, approximately a year ago. I don't know if there is any way around that or if that law is able to be changed? I mean once you are able to, because you can gun hunt and you can have somebody else fill your tag as long as you're within yelling distance, but being that I'm a felon that affects

me because supposedly, I'm not supposed to have a tag at all. So I would be fine just for walking through the woods and having a tag on me, according to the law that they have now. So to me it doesn't make sense to have a law like that. I mean it's a non-violent felony offense that I had eight years ago, that I've been pardoned for and if this goes through with able to use a bow to fill your gun tag, I don't see why a felon wouldn't be able to fill that gun tag using his bow. So these are the two things that I wanted to bring up. It didn't have anything to do with this, but I was told to come to this meeting to bring it up.

Brandon Stevens: This is something definitely we can look at. It's something, it takes a person of experience to know what you are prohibited from doing. So we can definitely look at that. So what we do with these public hearing comments. We take the public hearing comments and we'll go back. The LRO, which is the legislative reference office, they'll go back and they'll type up recommendations on how we can address this. And as a public policy matter, if it's something we can do, we can change and we can change it within the law and that's something that...that's our process and so that brings it up to this body, in another meeting and we'll say alright we like that. We send it back for an analysis and then it goes through the process.

Jeremy Wheelock: Right. I know the state has been doing it since 2012. Where they allow the citizens to fill their tags with their bow for gun season and the felons, they're allowed to have that gun tag for the state and other states also have that same law. So I don't know what's holding us back from doing it here.

Brandon Stevens: Yeah definitely we don't want to restrict anything unless...we want to have more...especially within the laws, and not reduce our memberships ability to fill tags.

Jeremy Wheelock: Right.

Brandon Stevens: Ok.

Jeremy Wheelock: Alright, thank you.

Brandon Stevens: Thanks Jeremy. Alright, is there anyone else who would like to speak on behalf of the Hunting, Fishing, and Trapping Law Amendments? Alright, Gary.

Gary Wheelock: I just wanted to speak on for like muzzle loading. You know I'm a muzzle loader myself but I'd rather see it shortened like we did that one year. A couple weeks anyway. I know a lot of people say, well you bow hunters get a lot more hunting in but. I don't know if a lot of them hunt in this kind of weather. It's a lot easier to shoot deer with a gun you know and I know they are out there blasting away just to fill their tags. Shoot and kill anything. I was just wondering if they might just get it shortened like they used to have and just maybe a couple weeks of muzzle loading. Because I hear, somebody said, "Oh there's like 200 deer out there." and that don't sound like much to me at all. You know the count they take or whatever. I think they're mostly getting slaughtered during muzzle loading, because they got a whole month and it's, like I said easier to get them with a muzzle loader. I know I'm probably the only one that, well I'm probably a couple of the ones, but I'd like to see maybe it get shortened. That's about all. I forgot to sign in back here.

Brandon Stevens: We'll get your information, but yeah definitely something we can look at and I think we can look at some kind of figures from when that season was shortened.

Gary Wheelock: It was just for one year, they had it.

Brandon Stevens: Just one year? Ok, yeah well your comments are done and we'll take a look at that. Thanks Gary.

Tehassi Hill: I just had a couple too on this. Speaking with a lot of hunters to the hunting group size, like to see an increase. It's currently at 10. I think it used to be 15 or 16. So looking at possible amendments to change the hunting group size to increase it for the gun group hunting portion of it. Also I heard some suggestions for a rule for early member only firearm hunt. Maybe start it a little bit early just for tribal members only. You know the weekend before or whatever. Another one was to authorize and set a date for a weekend youth hunt as well. Usually, I know the state usually does theirs I think sometime in October, which is the middle of October generally. Also to increase the designated hunter from one to two people to be able to hunt for. And then kind of the same suggestion that Jeremy had about use the bow to fill your gun tag. That's it.

Brandon Stevens: Anyone else who would like to speak on behalf of the Hunting, Fishing, and Trapping Law Amendments?

Gary Wheelock: I didn't really read the whole book on there but you know when you let the people that buy the non-tribal permits to hunt on our land and they can use their state tag. Are they able to, you know they can get a bunch of doe tags, they can. We only get that one. Are they able to fill all their tags with theirs?

Tehassi Hill: That's a change that's happening with these amendments. That they get a tribal tag, so they would get the one bow and the one fire arm tag. Currently yeah they get a land use permit and get state licenses so, we're trying to clear that up to make sure that our tribal members have the same amount of licenses and availability to hunt as non-members that are using our land to hunt.

Brandon Stevens: Is there any more comments? Then we'll close that one out. With there being no more speakers registered, the public meeting for the Hunting, Fishing and Trapping Law Amendments is now closed at 12:30 p.m.

Written comments may be submitted until close of business on Thursday December 22, 2016.

-End of Meeting-



Legislative Operating Committee
January 4, 2017

Per Capita Law Amendments

Submission Date: 7/10/15	Public Meeting: 5/19/2016 6/16/2016 12/15/2016
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

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

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

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

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

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

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

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

2/3/16 LOC: Motion by Tehassi Hill to defer the Per Capita Law Amendments to a work meeting with the Trust Enrollment Department, the Finance Department, Law Office and the sponsor and bring back to the LOC

within the next 30 days; seconded by David P. Jordan. Motion carried unanimously.

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

4/6/16 LOC: Motion by Jennifer Webster to prepare the Per Capita Law Amendments for a public meeting to be held on May 19, 2016; seconded by David P. Jordan. Motion carried unanimously.

4/20/16 LOC: Motion by Tehassi Hill to enter the April 7, 2016 e-poll results for the Per Capita Law Amendments; seconded by Fawn Billie. Motion carried unanimously.

Note: the April 7th 2016 e-poll directed the Legislative Reference Office to update the draft Per Capita Law Amendments and legislative analysis to include the revisions discussed in the memo.

Motion by Tehassi Hill to approve the Per Capita Law Amendments Public Meeting packet, noting one update to be made to the legislative analysis, and deleting one definition from the draft law; seconded by Fawn Billie. Motion carried unanimously.

Note: the update to the legislative analysis would identify one additional new duty of the Trust Enrollment Department: calculating the amount of attachments. The definition to be deleted is for "proof of education", since there are duplicate definitions.

5/19/16: *Public Meeting held.*

6/1/16 LOC: Motion by David P. Jordan to accept the results of the e-poll conducted on May 19, 2016 which approved the public meeting packet for an additional public meeting to be held for the Per Capita Law amendments on June 16, 2016 at 12:15 p.m.; seconded by Jennifer Webster. Motion carried unanimously.

Note: This will be the second public meeting for Per Capita Law Amendments.

6/16/16: *Public Meeting held.*

7/6/16 LOC: Motion by Tehassi Hill to accept the public meeting comments regarding the Per Capita law amendments from the May 19, 2016 and June 16, 2016 public meetings and direct desired changes; seconded by David P. Jordan. Motion carried unanimously.

Note: Directed change: remove the word automatic from section 123.6-1(d)(1)(C)(i).

7/25/16: Work Meeting held. Meeting held for an update on the status of this item. Attendees include Maureen Perkins, Jen Falck, Tani Thurner, Jo Anne House.

10/13/16: Quarterly Sponsor Update Meeting held. Present: David Jordan, Krystal John, Leyne Orosco, Tani Thurner, Maureen Perkins, Clorissa Santiago. Waiting for new draft.

- 10/24/16:** Work Meeting held. Present: David Jordan, Krystal John, Jennifer Falk, Jo Anne House, Maureen Perkins. Changes directed.
- 11/2/16LOC:** Motion by Fawn Billie to defer the Per Capita Law Amendments to the November 16, 2016 Legislative Operating Committee meeting; seconded by Jennifer Webster. Motion carried unanimously.
- 11/16/16LOC:** Motion by David P. Jordan to approve the Per Capita Law Amendments public meeting packet and direct the LRO to hold a public meeting on December 15, 2016; seconded by Jennifer Webster. Motion carried unanimously.
- 12/15/16** *Public Meeting held.*

Next Steps:

- Accept the Public Meeting comments and direct the LRO to implement any revisions the LOC requested in the LOC prep meeting.
- Direct the LRO to create an adoption packet for the Per Capita law Amendments with updated materials.

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

6	123.1. Purpose and Policy	10	123.5. Distributions
7	123.2. Adoption, Amendment, Repeal	11	123.6. Minor/Majority Age Beneficiaries and Legally Incompetent
8	123.3. Definitions	12	Adults
9	123.4. General	13	123.7. Per Capita Actions

123.1. Purpose and Policy

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

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

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

123.2. Adoption, Amendment, Repeal

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

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

123.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

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

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

123.3. Definitions

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

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

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- 54 (h) "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.
 55 (i) "Judiciary" means the Nation's judicial system, which includes the Family Court,
 56 Trial Court and/or Appellate Court.
 57 (j) "Legally Incompetent Adult" means a Tribal member who is at least eighteen (18)
 58 years of age and has been declared incompetent by a court of competent jurisdiction
 59 pursuant to applicable law.
 60 (k) "Majority Age Beneficiary" means a Tribal member who has reached eighteen (18)
 61 years of age by September 1st and is eligible to claim a trust account for the first time in
 62 the distribution year.
 63 (l) "Minor Beneficiary" means a Tribal member who is less than eighteen (18) years age.
 64 (m) "Nation" means the Oneida Nation.
 65 (n) "Oneida Entity" means a department, board, committee, commission or chartered
 66 corporation of the Nation or the Judiciary.
 67 (o) "Outstanding Check" means a check that has been written by the Nation, but has not
 68 yet cleared the bank on which it was drawn.
 69 (p) "Per Capita Payment" means the amount authorized by the General Tribal Council to
 70 be distributed to Tribal members.
 71 (q) "Pooled Account" means the account set up by the General Tribal Council or Oneida
 72 Business Committee, through resolution, for the purpose of managing undistributed funds
 73 pursuant to the Nation's laws.
 74 (r) "Proof of Education" means the documents identified in Article III of the Per Capita
 75 Trust Agreement as acceptable to demonstrate that the tribal member has received a high
 76 school diploma or its equivalent.
 77 (s) "Tribal Member" means an individual who is an enrolled member of the Nation.
 78 (t) "Trust Account" means an account(s) established by the Trust Enrollment Committee
 79 for the purpose of maintaining per capita funds for persons pursuant to the Nation's
 80 revenue allocation plan, which includes, but is not limited to, minor beneficiaries and
 81 legally incompetent adults.
 82 (u) "Trust Enrollment Committee" means that body designated by the General Tribal
 83 Council to manage the trust funds for the Nation on behalf of Tribal members, and which
 84 is also responsible for the Nation's enrollment records.
 85 (v) "Trust Fund Accountant" means the third party professionals hired by the Trust
 86 Enrollment Committee to oversee trust accounts established pursuant to this law.
 87

88 **123.4. General**

- 89 123.4-1. This section sets forth the responsibilities delegated under this law.
 90 123.4-2. *Supersedes.* This law supersedes any contradictory language contained in any other
 91 per capita payment plan.
 92 123.4-3. *Budgetary Limitations.* This law may not be construed as mandating a per capita
 93 payment; per capita payments may only be issued at the direction of the General Tribal Council
 94 through adoption of a resolution.
 95 123.4-4. *Oneida Business Committee.* The Oneida Business Committee shall:
 96 (a) Identify and allocate funds available for per capita payments;

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- 97 (b) Forward approved revenue allocation plans to the Bureau of Indian Affairs;
 98 (c) Transfer funds to the appropriate Oneida entity(ies) pursuant to the Nation's laws
 99 within a reasonable time frame;
 100 (d) Be responsible for any activities not specifically identified but reasonably related to
 101 the responsibilities in this in this sub-section; and
 102 (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the
 103 Trust Enrollment Committee.
- 104 123.4-5. *Trust Enrollment Committee.* The Trust Enrollment Committee shall:
 105 (a) Manage trust accounts related to per capita payments with fiduciary responsibility;
 106 (b) Maintain the Nation's membership rolls so that the Trust Enrollment Department can
 107 accurately identify which Tribal members are eligible for distribution;
 108 (c) Provide input to the Finance Department regarding per capita matters included in the
 109 Nation's revenue allocation plan;
 110 (d) Be responsible for any activities not specifically identified but reasonably related to
 111 the responsibilities in this sub-section; and
 112 (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the
 113 Oneida Business Committee.
- 114 123.4-6. *Trust Enrollment Department.* When a per capita payment is approved, the Trust
 115 Enrollment Department shall:
 116 (a) Develop and finalize a list of the eligible distribution recipients broken down into the
 117 following categories: minor beneficiaries, majority age beneficiaries, legally incompetent
 118 adults, adults and elders. For the purposes of this section, elder means a Tribal member
 119 who meets the age requirements as of December 31st of a given year to be eligible for an
 120 elder distribution as determined by the effective General Tribal Council Resolution.
 121 (b) Provide the finalized list of Tribal members eligible to receive the distribution to the
 122 Oneida Accounting Division and trust fund accountant.
 123 (c) Send membership distribution and trust account forms and receipts related to the
 124 same.¹
 125 (d) Manage and maintain the Enrollment Database including, but not limited to,
 126 membership and distribution information.
 127 (e) Process the distribution data and forward the data to the Oneida Accounting Division
 128 and trust fund accountant.²
 129 (f) Ensure the availability and liquidity of funds for transfer of the trust funds under the
 130 authorization of the Trust Enrollment Committee.
 131 (g) Provide fund transfer instructions to the relevant initiating institution: the custodial
 132 bank or the Oneida Accounting Division.

¹ **Susan White – Written Comments:** Lines 123 and 124: Replace the words “the same” with “Tribal members.”

² **Bonnie Pigman – Written Comments:** Insert to section 123.4-6 after Line 128 (will have re-letter "(f)" to "(I)")
 (f) Unless and until the Trust Enrollment Department creates a Rule to transfer the customer service requests related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests to the Central Accounting Payable Department, the Trust Enrollment Department shall continue to provide all customer services related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests.

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- 133 (h) Work with the Trust Enrollment Committee to establish any necessary trust accounts.
 134 (i) Monitor all trust accounts for the purposes of necessary reporting, claims and
 135 distribution verification.
 136 (j) Record issued, voided, redeemed, and outstanding check trust account distributions in
 137 the Enrollment Database.³
 138 (k) Complete trust account reconciliations.
 139 (l) Calculate attachment amounts for collection of Oneida entity debts and implement
 140 Oneida entity attachments.
 141 123.4-7. *Oneida Accounting Division.* When a per capita payment is approved, the Oneida
 142 Accounting Division shall:⁴
 143 (a) Initiate and complete the funds transfer upon receipt of funds transfer instructions
 144 from the authorizing Oneida entity and shall ensure that the physical movement of funds
 145 happens no later than one (1) business day prior to the distribution date.
 146 (b) Record issued, voided and outstanding check distributions on the general ledger.
 147 (c) Complete bank account reconciliations.
 148 123.4-8. *Tribal Treasurer.* The office of the Oneida Treasurer shall identify funds and shall
 149 timely transfer the necessary amount of relevant funds to the Trust Enrollment Committee, the
 150 trust fund accountant and the Oneida Accounting Division.
 151 123.4-9. *Attachments.* Per capita payments are benefits offered by the Nation to Tribal
 152 members. All per capita payments, except distributions to or from a trust account for a
 153 beneficiary, may be subject to attachment prior to distribution in accordance with this section.
 154 Entities seeking to attach a per capita payment shall follow the timelines identified in this law.
 155 (a) Per capita payments may only be attached for the following purposes, and in the
 156 following order:
 157 (1) Child support arrears ordered by a court of competent jurisdiction. After child
 158 support arrears are fully satisfied, the Trust Enrollment Department shall apply
 159 any remaining per capita payments for the payment of debt owed to an Oneida
 160 entity.
 161 (A) If a Tribal member owes arrears in more than one (1) child support
 162 order, the Oneida Nation Child Support Agency shall equally divide the
 163 per capita payment based on the number of court orders under which
 164 arrears are owed.
 165 (2) Debt owed to an Oneida entity that is past due. After child support arrears and

³ **Susan White – Written Comments:** Line 136: delete the words “trust account”

⁴ **Bonnie Pigman – Written Comments:** Insert to section 123.4-7 (starting after Line 147) (e) The Trust Enrollment Department will continue to provide customer service requests related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests unless and until the Trust Enrollment Department modifies the customer service procedures to transfer these duties to the Central Accounting Payable Department, by creating a Rule.

Susan White – Written Comments: Insert into section 123.4-7 (starting after line 147)

(d) Processes Per Capita Distribution to Payables Ledger.

(e) Performs all activities related to fiscal and calendar year end processes, including providing tax documents and tax reporting as required by Tribal, State or Federal Law.

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166 debt owed to an Oneida entity have been fully satisfied, the Trust Enrollment
167 Department shall apply any remaining per capita payment for the payment of a
168 federal tax levy.

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

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

174 (3) A federal tax levy.

175 (b) If the amount of the per capita payment exceeds the amount of the attachment, the
176 Trust Enrollment Department shall distribute the remaining balance to the Tribal
177 member, provided the Tribal member has met the distribution requirements contained in
178 this law. If there is a remaining unclaimed balance, the Tribal member may request it to
179 be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall deposit
180 any remaining refused balance in accordance with 123.5-5.

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

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

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

190 (3) The Trust Enrollment Department may not attach a Tribal member’s per
191 capita payment to collect child support arrears without first having received an
192 order of determination issued by the Judiciary.⁵

193 (4) After the child support arrears have been satisfied, if an attachment request is
194 submitted for the same Tribal member’s per capita payment based on new child
195 support arrears, the Oneida Nation Child Support Agency shall issue another one-
196 time notice and federal income tax withholding form in accordance with 123.4-
197 9(c)(1).

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

201 (1) *Notice of Indebtedness.* Prior to initiating an attachment, the Oneida entity
202 owed the debt shall provide written notice of indebtedness to the debtor by first

⁵ **Susan White – Written Comments:** Line 190: change to read “The Trust Enrollment Department may not process an attachment on a Tribal member’s per”

⁶ **Ed Delago – Oral Comment:** The second one was being able to take the person’s per capita without bringing them to the Tribal court or Nation court. I don’t support anyone being able to take our per capita except for our own Tribal court for debts owed to the Tribe I believe and child support. I would like to keep that. Thank you.

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- 203 (1st) class mail at the debtor's last known address.
- 204 (A) *Frequency of Notice.* Oneida entities shall send debtors notice of
- 205 indebtedness for each month a debt is owed with each notice being sent a
- 206 minimum of thirty (30) calendar days apart. Oneida entities shall send
- 207 two (2) consecutive monthly notices prior to the debt becoming eligible
- 208 for attachment.
- 209 (B) *Notice Content.* Oneida entities shall include the following in their
- 210 notices of indebtedness:
- 211 (i) How many notices of indebtedness have been provided prior to
- 212 the subject notice and the dates of all prior notices;
- 213 (ii) The amount of the debtor's indebtedness;
- 214 (iii) Information for making payment on the debt; and
- 215 (iv) An explanation that if the debt is not paid in full within thirty
- 216 (30) calendar days from the date of the second consecutive
- 217 monthly notice, the entity may initiate an automatic attachment of
- 218 the Tribal member's per capita payment.
- 219 (2) *Initiating an Attachment.* After thirty (30) calendar days have lapsed since the
- 220 Oneida entity sent the second consecutive monthly notice of indebtedness, the
- 221 Oneida entity may initiate an attachment by providing the debtor with a final
- 222 notice of indebtedness with intent to attach. The Oneida entity shall send the final
- 223 notice to the debtor by certified mail. Additionally, the Oneida entity shall post
- 224 notice of intent to attach in the Nation's newspaper, where such notice includes
- 225 only the debtor's name, the Oneida entity owed a debt and the Oneida entity's
- 226 contact information for payment. The Oneida entity shall submit its request to
- 227 post to the newspaper at the same time as the final notice with intent to attach is
- 228 mailed in order to ensure that notice is posted in the newspaper a minimum of ten
- 229 (10) business days before the close of the debtor's thirty (30) calendar day time
- 230 period to resolve the debt or request an attachment hearing.
- 231 (A) The Oneida entity shall include the following in the final notice of
- 232 indebtedness with intent to attach:
- 233 (i) The dates of all prior notices of indebtedness provided to the
- 234 debtor;
- 235 (ii) The amount of the debtor's indebtedness;
- 236 (iii) Information for making payment on the debt;
- 237 (iv) An explanation that this is the final notice and the Oneida
- 238 entity has by this final notice initiated an attachment against the
- 239 debtor;
- 240 (v) An explanation that if the debt is not paid in full within thirty
- 241 (30) calendar days from the date of the final notice of indebtedness
- 242 with intent to attach that the Trust Enrollment Department will
- 243 automatically attach the debtor's available per capita payment in
- 244 order to satisfy the debt;
- 245 (vi) An explanation that the debtor may request an attachment

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246 hearing with the Judiciary to contest the validity of the debt by
247 submitting a petition to the Judiciary within thirty (30) calendar
248 days from the date of the of the final notice of indebtedness with
249 intent to attach and that the debtor is responsible for any filing fees
250 required by the Judiciary; and

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

255 (B) *Attachment Deadlines.* In order for the Trust Enrollment Department
256 to implement an attachment for a current per capita payment distribution,
257 Oneida Entities shall:⁷

258 (i) Send the Trust Enrollment Department a one-time final
259 accounting of all debts subject to attachment no later than July 31st,
260 provided that, in order for a debt to be included in the final
261 accounting, the Oneida entity's shall have sent the debtor a final
262 notice of indebtedness with intent to attach in which the debtor's
263 thirty (30) day period to resolve the debt or request an attachment
264 hearing with the Judiciary expires on or before July 31st; and

265 (ii) Receive, review and respond to the withholding report, in
266 accordance with the deadline provided by the Trust Enrollment
267 Department.

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

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

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

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

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

⁷ **Susan White – Written Comments:** Line 256: change the word “implement” to “process”.

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- 287 a copy of the final notice of indebtedness with intent to attach with the petition.
 288 (A) The debtor shall pay any filing fees required by the Judiciary before
 289 the Judiciary may consider the petition complete.
 290 (B) When a request for an attachment hearing is timely made, the Oneida
 291 entity is still not required to obtain a judgment, but shall receive an
 292 attachment order before the Trust Enrollment Department may attach a per
 293 capita payment to collect debt owed to the Oneida entity.
- 294 (6) *Multiple Attachments.* If a single per capita payment is not sufficient to
 295 satisfy the debt owed to an Oneida entity, the Oneida entity shall follow the
 296 process contained in section 123.4-9(d)(1)-(5) for each per capita payment it seeks
 297 to attach.
- 298 (e) *Federal Tax Levy Attachments.* Claimants or their designated representatives shall
 299 submit all requests for attachments for a federal tax levy to the Judiciary. The Trust
 300 Enrollment Department may not attach a Tribal member's per capita payment to collect a
 301 federal tax levy without first having received an order of determination from the
 302 Judiciary.⁸
- 303 (f) The Judiciary may order and the Trust Enrollment Department may implement
 304 attachments against per capita payments of Tribal members who do not return a notarized
 305 membership payment form as required under 123.5-2(b)(1) or who refuse a payment
 306 under 123.5-2(f).⁹ If the amount of the per capita payment exceeds the amount of the
 307 attachment resulting in a remaining unclaimed balance, the Tribal member may request it
 308 to be distributed as provided in 123.5-2(e). The Trust Enrollment Department shall
 309 deposit any remaining refused balance in accordance with 123.5-5.
- 310 123.4-10. *Federal Income Tax Withholding.*
- 311 (a) *Voluntary.* The Trust Enrollment Department shall withhold federal income taxes
 312 from a distribution only when the following applies:
- 313 (1) Tribal members whose per capita payment is not subject to attachment in
 314 accordance with section 123.4-9 may voluntarily request to have federal income
 315 tax withheld, provided that Tribal members shall make such requests in
 316 accordance with the applicable distribution deadlines.
- 317 (2) If the Trust Enrollment Department receives a timely voluntary request to
 318 have federal income tax withheld from a Tribal member whose per capita
 319 payment is subject to attachment in accordance with section 123.4-9, the Trust
 320 Enrollment Department shall apply the federal income tax withholding to the
 321 applicable distribution before any attachments are applied.
- 322 (b) *Mandatory.* A Tribal member who meets all of the requirements of this law, but
 323 refuses to provide the Trust Enrollment Department with his or her social security
 324 number or individual tax identification number is subject to mandatory federal income
 325 tax withholding from his or her per capita payment, as required by federal law.
- 326 (c) *IRS Publication 15a.* The Nation shall comply with the most recent edition of IRS

⁸ **Susan White – Written Comments:** Line 301: Insert after the word [not] “process an attachment on”

⁹ **Susan White – Written Comments:** Line 304: Change the word “implement” to “process”.

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327 Publication 15a.

328

329 **123.5. Distributions**

330 123.5-1. *General.* This section sets forth the required processes for distribution of per capita
331 payments.

332 123.5-2. *Deadlines.* The following deadlines apply in regards to the annual per capita
333 payment. Where the dates fall on a Saturday, Sunday, or holiday the deadline is construed to be
334 the close of business on the following business day. For any additional per capita payments, the
335 Trust Enrollment Committee may establish dates and deadlines associated with those payments,
336 as needed.

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

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

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

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

348 (2) *Dual Enrollment.* A Tribal member who is dually enrolled with another
349 Indian tribe is not eligible for a per capita payment unless his or her
350 relinquishment from the other tribe has been processed and written verification
351 that the member is no longer enrolled with that tribe has been received by the
352 Trust Enrollment Department by September 1st.

353 (b) *Distribution Documents.*

354 (1) *Adult Distribution Form and Instructions.* Unless and until the Trust
355 Enrollment Department modifies the Adult Distribution Form and Instructions by
356 creating rules, the Trust Enrollment Department shall comply with the
357 following.¹⁰

¹⁰ **Bonnie Pigman – Oral Comment:** There are a couple of additional things that I looked at aside from this document and one is the section for Adult Distribution Form and Instructions. Currently in your redline it has information in there “Unless and until the Trust Enrollment Department modifies the Adult Distribution Form and Instructions by creating rules, the Trust Enrollment Department shall comply with the following.” which is mailing out forms. I understand that it’s the intent. The original intent of mailing forms to the membership was so that at least one time per year the Tribe had some kind of contact with the members. I do not think that that is a responsibility of Tribe to initiate contact with the membership one time a year, I think that’s a responsibility of the membership to update the Nation on what their current address or information is, so I don’t think that intent applies anymore, just because there are so many other ways for them to make contact with us because of technology. So I don’t think that that should be a consideration for a reason to keep having to mail forms out to the membership each year.

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

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

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

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

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

375 (c) *Annual Distribution Date.* The Trust Enrollment Department shall distribute all
376 annual per capita payments on or before September 30th, excluding those to beneficiary
377 trust accounts, which are governed by the Per Capita Trust Agreement.¹¹

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

382 (1) The Trust Enrollment Department shall deduct any fees associated with
383 reissuing a distribution from the reissued distribution. (Fees may include, but are
384 not limited to, stop payment and direct deposit bank rejection fees).¹²

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

¹¹ **Ed Delgado – Oral Comment:** Regarding the Per Capita Amendments. I don't know exactly what the amendments are, but the way this was started here, reduce and I have asked a few people what's your understanding of that, reduce the frequency, that I understand what you mean, maybe we're getting paid too many times. The question is, we all get our per capita at the same time, the first of October. I don't understand where it says reduce the frequency of which when we get our per capita payments. We get it October 1st, just like the other Tribal members, elders get the same. So when we see that word "reduced" the people I talked to, they did not understand it and I did not understand it because we do get it the first of October, so that raised some questions from some people whenever they see the word "reduced" and the word "per capita" in the same sentence. So, it's my understanding there's no reduction amount and no change in the distribution date, so that was my question.

Susan White – Written Comments: Line 385 [Line 375 of the clean draft]: change "Trust Enrollment Department" to "Nation".

¹² **Susan White – Written Comments:** Line 392 [Line 382 of the clean draft]: change the word "deduct" to "process".

Line 393 [Line 383 of the clean draft]: insert after the word [distribution] "as determined by the Oneida Accounting Division.

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387 Tribal member as identified in 123.5-2(e)(2)(A).

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

389 (1) *Unclaimed Payment.* Tribal members shall submit a request for a prior adult
390 per capita payment, for which the Tribal member was eligible, but was not
391 claimed or fully attached, by September 1st of the next year. For example, if a
392 payment's original distribution date is in 2000, then the deadline is September 1,
393 2001. If a request is not received by the deadline date, the payment expires and
394 the Trust Enrollment Department shall deposit such funds in a pooled account in
395 accordance with 123.5-5.

396 (A) The Trust Enrollment Department shall distribute prior per capita
397 payments requested by eligible adults according to the Trust Enrollment
398 Committee's rules regarding distribution timelines.¹³

399 (B) The Trust Enrollment Department shall distribute prior per capita
400 payments requested by a majority age beneficiary in accordance with
401 Article III of the Per Capita Trust Agreement.¹⁴

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

407 (A) An adult, minor beneficiary or majority age beneficiary's distribution
408 may only be reissued once. After the distribution/rejected direct deposit
409 funds are reissued, the Tribal member has ninety (90) days to redeem it or
410 the distribution will expire and may not be reissued. The Trust Enrollment
411 Department shall deposit expired funds in a pooled account in accordance
412 with 123.5-5.¹⁵

413 (B) The Trust Enrollment Department shall deduct any fees associated
414 with reissuing a distribution from the reissued distribution. (Fees may
415 include but are not limited to stop payment and direct deposit bank
416 rejection fees).

417 (i) The Nation shall waive fees if a check is reissued due to an
418 error on its behalf. A reissue made due to an error on the Nation's
419 behalf may not count against the Tribal member as identified in
420 123.5-2(e)(2)(A).

421 (f) *Refusal of Distributions.* An adult or majority age beneficiary may refuse any
422 distribution due to him or her, including a trust account distribution, by completing a

¹³ **Susan White – Written Comments:** Line 406 [Line 396 of the clean draft]: change the word “distribute” to “process”.

¹⁴ **Susan White – Written Comments:** Line 409 [Line 399 of the clean draft]: change the word “distribute” to “process”.

¹⁵ **Susan White – Written Comments:** Line 421 [Line 411 of the clean draft]: change to read “Department shall process expired fund which are to be deposited in accordance”

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423 refusal form available with the Trust Enrollment Department. However, if the Judiciary
424 has approved an attachment of an adult distribution, only the remaining portion of the
425 distribution, if any, may be refused. Majority age beneficiary and legally incompetent
426 adult distributions are not attachable.

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

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

432 (3) The Trust Enrollment Department shall deposit refused distributions in a
433 pooled account in accordance with 123.5-5.¹⁶

434 123.5-3. *Deceased Tribal Members.*

435 (a) *Deceased Tribal Member Distribution Forms.* Tribal members are eligible to receive
436 a distribution so long as the Tribal member has complied with the distribution documents
437 and/or distribution rule(s) requirements. This includes distributions identified to be
438 deposited to a trust account. The estate of a deceased Tribal member may not submit a
439 membership distribution form on behalf of the deceased to claim a distribution. The
440 Tribal member is only eligible for the distribution if the Tribal member either personally
441 or through an appointed representative submits the distribution form while the Tribal
442 member is still living.¹⁷

¹⁶ **Susan White – Written Comments:** Lines 443 and 444 [Lines 432-433 of the clean draft]: change to read “The Trust Enrollment Department shall process refused distributions in accordance with 123.5-5.

¹⁷ **Bonnie Pigman – Oral Comments:** Aside from that there was a discussion at the LOC Meeting on November 16th in regards to the deceased section and my thoughts were and still are as I would like to see the deceased section stay as it is currently written in the law, however, I understand there are compelling reasons for wanting to change that process and allow for that deceased members to be paid the distributions and I think there was one good recommendation that was put forth at that meeting in regards to adding a section to membership payment form for designating a beneficiary and I think that’s doable, but I think that it needs to be required and that language needs to be added to the law, it needs to be made a requirement that if they don’t fill out that section of the form the form is not accepted. The only reason I say that is because if you are going to start paying deceased people and we don’t have sections that allow written in to regards to probate, then we get into a lot of problems with sending out information or notices to interested parties or having to go through the Probate process to identify a personal representative and just think it could get co-mingled, so I just think that that needs to be a requirement if you are going to allow pay the deceased people as it’s written in this draft, then you need to add language to the law, one to make it a requirement that it be added to the form and that the member has to fill out that section on the form, otherwise the form is not complete. So those would be the things I am looking at aside from the items that I have listed for submission as written testimony.

Bonnie Pigman – Written Comment: At the 11/16/2016 Regular LOC meeting there was a lot of discussion regarding the Deceased section (123.5-3, Line 445). From the discussion one suggestion was to add a beneficiary section to the Membership Payment form, eliminating the need to add additional language to the law regarding Probate. I feel if the decision is made to adopt the red-line version of the law, which is to pay deceased members who submit acceptable Membership Payment forms in accordance with the distribution deadline, and to request a new section be added to the Membership Payment form whereas, members can indicate who is to receive their benefit in the event of their death, that the law include language that the new beneficiary designation section also be a required section. So

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443 (b) *Deceased Minor/Majority Age Beneficiary or Legally Incompetent Adult.*
 444 (1) *When a there is a Beneficiary Designation Form on Record.*¹⁸ A
 445 minor/majority age beneficiary's or a legally incompetent adult's trust account
 446 balance upon death is inheritable upon the date of the beneficiary's death in
 447 accordance with the most recent beneficiary designation form on record as
 448 applicable. *Within thirty (30) calendar days of learning of a minor/majority age*
 449 *beneficiary's or legally incompetent adult's death, the Trust Enrollment*
 450 *Department shall provide notice of any remaining trust account balance to*
 451 *designated beneficiary using the last address on file.*¹⁹ Should a designated
 452 beneficiary claim the remaining trust account balance, the Trust Enrollment
 453 Department shall issue the distribution in the name of the first available

if a Membership Payment form is received by the Trust Enrollment Department and the beneficiary designation section is not completed the Membership Payment form is not considered complete and would not be accepted. No exceptions.

Jennifer Webster – Oral Comment: I have some comments as well in regards to the second bullet. “Allow per capita distributions to all Tribal members that have filled out the required distribution forms, even if the Tribal member becomes deceased before the per capita distribution.” We have an OLIPP form that will help with funeral arrangements and costs and I’ve spoken with several elders and they as well believe that per capita should stop at date of death. That’s the fairest across the board, I feel, and that’s what the members that I have spoke to as well, that it should end at date of death. Thank you.

Susan White – Written Comment: Lines 445-457 [Line 435-442 of the clean draft]: change to read as follows:
 123.5-3. *Deceased Tribal Members.* Tribal members are ineligible to receive a distribution if his or her death occurs on or before the distribution date. This includes distributions identified to be deposited to trust accounts.

- (1) The estate of a deceased adult Tribal member may not submit a membership distribution form on behalf of the deceased to claim a distribution.
- (2) By running a system generated activity in the AS400 database, the Trust Enrollment Department initiates the movement of per capita funds reserved for deceased adults to the pooled account in accordance with 123.5-5.

The Trust Enrollment Department does not wish to change the intent of the existing Per Capita law language for Deceased Members (adopted BC-08-14-13-D) as the proposed language would further require other sections of the law to be updated. Other sections affected include; complying with Oneida Probate process to establish a Personal Representative, which would require adding additional language into the Law. If the requirement was to just pay “claimed” distributions, then what happens when a check cannot be cashed or if the direct deposit gets rejected? There are no provisions identified in the Law determining how these situations get resolved.

Should the decision be to leave the deceased language as it currently reads in draft 16, that the following revisions be made:

- Update the reissue check section of the Law as it only allows for the “Tribal member” to make the request.
- Add “similar” language be added to be consistent with Probate rules and processes.
- Consider alternatives such as adding a section to the distribution form for beneficiary designation. The section should include the beneficiary name, contact number and address, plus add language that members are required to complete the section, or the form will not be accepted.

¹⁸ **Bonnie Pigman – Written Comment:** Line 458 [line 443 of the clean draft]: please correct the following typo: remove the word "a" following the word "When".

¹⁹ **Bonnie Pigman – Written Comment:** Line 465 [line 450 of the clean draft]: please insert "the" before the word "designated".

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454 designated beneficiary(s). If a designated beneficiary does not request
455 distribution of the remaining balance of a trust account within one (1) year after
456 the Trust Enrollment Department's date of notice, the Trust Enrollment
457 Department shall liquidate and deposit the trust fund account as follows:

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

460 (B) For the remaining balance in a legally income adult's trust account, to
461 the General Fund.²⁰

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

472 123.5-4. *Relinquishment of Tribal Membership.* Tribal members are ineligible for any current,
473 future and/or prior per capita payment distributions as of the date his or her Tribal membership is
474 relinquished.

475 (a) *Relinquished Adult.* The Trust Enrollment Department shall deposit funds set aside
476 for a relinquished adult's distribution in a pooled account in accordance with 123.5-5.²¹

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

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

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

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

²⁰ **Bonnie Pigman – Written Comment:** Line 474 [Line 459 of the clean draft]: please change the word "income" to "incompetent".

²¹ **Susan White – Written Comment:** Line 505 [Line 475 of the clean draft]: change the word "deposit" to "process". Line 506 [Line 476 of the clean draft]: remove the words "in a pooled account".

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492 section 123.5-2(f).

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

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

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

502 (1) If the trust account funds for a legally incompetent adult are not claimed
503 within one (1) year after the date of relinquishment, the Trust Enrollment
504 Department shall liquidate and deposit the trust fund account in accordance with
505 123.5-5.

506 **123.5-5. Pooled Account.** Pooled account funds are managed by the Trust Enrollment
507 Committee, to be used for a purpose designated by General Tribal Council. Pooled account funds
508 result from the following.

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

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

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

514 (3) An adult's death occurs prior to a distribution date; or

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

517 (5) The guardian of a deceased legally incompetent adult fails to request
518 distribution of the trust account within the time provided under 123.5-3(c).²²

519

520 **123.6. Minor/Majority Age Beneficiaries and Legally Incompetent Adults**

521 123.6-1. *Minor Beneficiaries.* This section sets forth a consistent method to protect and
522 preserve the interests of minor beneficiaries in any distribution to which a minor beneficiary may
523 be eligible. All distributions to minor beneficiaries are governed by this law, IGRA and the Per
524 Capita Trust Agreement.²³

525 (a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish
526 standard operating procedures for setting up, monitoring and distributing the trust
527 accounts. The Trust Enrollment Committee may choose to maintain pooled or individual

²² **Susan White – Written Comments:** Lines 536-548 [Lines 506-518 of the clean draft]: section 123.5-5 and all references to this section in the law need to be reviewed and corrected due to GTC took action in 2016 removing Trust Enrollment Committee's responsibility to manage pooled account funds which (effective FY 2017) will go to a expense line for sewer and water.

²³ **Susan White – Written Comments:** Line 553 [Line 523 of the clean draft]: insert "Tribal Revenue Allocation Plan" after IGRA.

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528 accounts, separate accounts for each distribution or series of distributions, or any other
529 combination which is in the best interests of the beneficiaries and which is consistent
530 with the terms of the Per Capita Trust Agreement and the Trust Enrollment Committee's
531 investment policy.

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

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

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

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

551 (1) Meet the age and education requirements where:

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

555 (B) If the majority age beneficiary does not have proof of education by
556 September 1st of the Distribution year as required by the Per Capita Trust
557 Agreement, he or she remains eligible to claim their trust account funds
558 upon reaching twenty-one (21) years of age.

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

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

567 (ii) Majority age beneficiaries who have a learning or other
568 disability that has been medically diagnosed and are able to present

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569 a certificate of attendance showing he or she has attended twelve
570 (12) years of school.²⁴ In such circumstances, that certificate of
571 attendance is deemed the equivalent to proof of education.

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

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

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

580 (iii) Notify the Tribal member of the following:

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

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

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

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

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

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

597 (2) Complete and submit a majority age beneficiary distribution form and/or
598 deferral payment agreement by July 1st of the distribution year. A majority age
599 beneficiary may postpone distribution of all or some of his or her trust account
600 funds by entering into a deferral payment agreement pursuant to the Per Capita
601 Trust Agreement.

602 123.6-2. *Legally Incompetent Adults.* This section sets forth a consistent method to protect and
603 preserve the interests of legally incompetent adults in any distribution for which they may be
604 eligible. If a distribution includes legally incompetent adults as eligible recipients, the Trust
605 Enrollment Department shall deposit such distributions into a trust account in accordance with
606 IGRA.²⁵

²⁴ **Bonnie Pigman – Written Comment:** Line 600 [Line 566 of the clean draft]: please insert "certified documentation of medical diagnosis and" at the beginning of the line.

²⁵ **Susan White – Written Comment:** Line 637 [Line 606 of the clean draft]: insert "Tribal Revenue Allocation Plan" before "IGRA".

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

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

621 123.6-3. *Beneficiary Designation Forms.* The Trust Enrollment Department shall provide all
622 minor/majority age beneficiaries and legally incompetent adults with beneficiary designation
623 forms which name a beneficiary to inherit any remaining trust account balance in the event of the
624 minor/majority age beneficiary's or legally incompetent adult's death. Once every year, the
625 Trust Enrollment Department shall mail such forms out to newly enrolled Tribal members, all
626 persons that became a majority age beneficiary in that year and Tribal members declared a
627 legally incompetent adult in that year or had a new guardian appointed in that year. The
628 beneficiary designation form is required to include the following:

- 629 (a) An explanation of the effect of and benefits to designating a beneficiary(s);
630 (b) An explanation of the potential consequences to not naming a beneficiary(s); and
631 (c) A signature field for the applicable of the parent/guardian or majority age beneficiary
632 with an explanation of when each party is expected to sign.
633

634 **123.7. Per Capita Actions**

635 123.7-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions
636 taken pursuant to this law and/or rules.

637 123.7-2. No administrative hearing body, including a board, committee or commission, is
638 authorized to hear a complaint regarding actions taken pursuant to this law and/or rules.

639 123.7-3. In regards to taking actions authorized under this law, complaints filed with the
640 Oneida Judiciary shall name the Trust Enrollment Department.

641
642 *End.*
643

644
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)

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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
PUBLIC MEETING**

Per Capita Law Amendments

Business Committee Conference Room-2nd Floor Norbert Hill Center
December 15, 2016 12:30 p.m.

Present: Jennifer Webster, Tehassi Hill, Brandon Stevens, David P. Jordan, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jeremy Wheelock, Bonnie Pigman, Chad Wilson, Rae Skenandore, Nicole Steuber, Gene Schubert, Laura Manthe, Edward Delgado, Gary Wheelock, Trina Villegas, Michele Doxtator, Leyne Orosco, Danelle Wilson, Trish King.

Brandon Stevens : This is basically a Public Meeting for four items and the next item will be the Per Capita Law Amendments in this setting and we're setting a time limit of five minutes per speaker.

We will begin this public meeting for the Per Capita Law. This is a proposal for amendments to the Per Capita Law that would:

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

So like the other ones, the public comment hearing period, may submit written comments and/or transcripts of any testimony spoken, comments made during the Public Meeting, they may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, inter-office mail, e-mail or fax. These comments must be received by close of business on Thursday December 22, 2016.

Brandon Stevens: So do we have anyone else that would like to speak for the Per Capita Law, otherwise Bonnie is first up.

Bonnie Pigman: Good afternoon, my name is Bonnie Pigman, Enrollment #5361. I'm not here in the capacity of an employee of the Tribe's Enrollment Department, but on behalf of myself in regards to the information provided on this particular draft of the Per Capita Law. I do have a written testimony document that can be provided to the Tribal Secretary. There are a couple of additional things that I looked at aside from this document and one is the section for Adult Distribution Form and Instructions. Currently in your redline it has information in there "Unless and until the Trust Enrollment Department modifies the Adult Distribution Form and Instructions by creating rules, the Trust Enrollment Department shall comply with the following." which is mailing out forms. I understand that it's the intent. The original intent of mailing forms to the membership was so that at least one time per year the Tribe had some kind of contact with the members. I do not think that that is a responsibility of Tribe to initiate contact with the membership one time a year, I think that's a responsibility of the membership to update the Nation on what their current address or information is, so I don't think that intent applies anymore, just because there are so many other ways for them to make contact with us because of technology. So I don't think that that should be a consideration for a reason to keep having to mail forms out to the membership each year. Aside from that there was a discussion at the LOC Meeting on November 16th in regards to the deceased section and my thoughts were and still are as I would like to see the deceased section stay as it is currently written in the law, however, I understand there are compelling reasons for wanting to change that process and allow for that deceased members to be paid the distributions and I think there was one good recommendation that was put forth at that meeting in regards to adding a section to membership payment form for designating a beneficiary and I think that's doable, but I think that it needs to be required and that language needs to be added to the law, it needs to be made a requirement that if they don't fill out that section of the form the form is not accepted. The only reason I say that is because if you are going to start paying deceased people and we don't have sections that allow written in to regards to probate, then we get into a lot of problems with sending out information or notices to interested parties or having to go through the Probate process to identify a personal representative and just think it could get co-mingled, so I just think that that needs to be a requirement if you are going to allow pay the deceased people as it's written in this draft, then you need to add language to the law, one to make it a requirement that it be added to the form and that the member has to fill out that section on the form, otherwise the form is not complete. So those would be the things I am looking at aside from the items that I have listed for submission as written testimony.

Brandon Stevens: Thank you Bonnie.

Bonnie Pigman: Okay.

Brandon Stevens: Is there any other comments? Ed.

Ed Delgado: Regarding the Per Capita Amendments. I don't know exactly what the amendments are, but the way this was started here, reduce and I have asked a few people what's your understanding of that, reduce the frequency, that I understand what you mean, maybe we're getting paid too many times. The question is, we all get our per capita at the same time, the first of October. I don't understand where it says reduce the frequency of which when we get our per capita payments. We get it October 1st, just like the other Tribal members, elders get the same. So when we see that word "reduced" the people I talked to, they did not understand it and I did not understand it because we do get it the first of October, so that raised some questions from some people whenever they see the word "reduced" and the word "per capita" in the same sentence. So, it's my understanding there's no reduction amount and no change in the distribution date, so that was my question.

The second one was being able to take the person's per capita without bringing them to the Tribal court or Nation court. I don't support anyone being able to take our per capita except for our own Tribal court for debts owed to the Tribe I believe and child support. I would like to keep that. Thank you.

Brandon Stevens: Okay the first was a question of just clarity of what we're trying to do, but I think that was, it may seem like it's reducing anything, it's just making sure that it's being maintained on the same schedule as the regular per capita payments and so yes, yes we will make sure that we're clear with that moving forward, that it's not a reduction of any kind of payments, just the frequency and when it happens we can show that it maintains the same schedule as the rest of the per capita payments. So we'll make sure we stay on top of the language so it's very clear and we'll take a look at that other language about having the departments not file in the Judiciary to, you wanted an order right, to file an order to the Judiciary to get an attachment on the per capita, so that's something, that's a policy decision that we've bounced around a lot and so we'll take that into consideration. Jenny.

Jennifer Webster: I have some comments as well in regards to the second bullet. "Allow per capita distributions to all Tribal members that have filled out the required distribution forms, even if the Tribal member becomes deceased before the per capita distribution." We have an OLIPP form that will help with funeral arrangements and costs and I've spoken with several elders and they as well believe that per capita should stop at date of death. That's the fairest across the board, I feel, and that's what the members that I have spoke to as well, that it should end at date of death. Thank you.

Brandon Stevens: Thanks Jennifer. Is there any more comments regarding the Per Capita Law Amendments? I will close that Public Hearing at 12:39 p.m.

-End of Meeting-

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



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.



P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-2214



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.

RECEIPT FOR INFORMATION / PETITION

Bonnie Pigman

PERSON MAKING DELIVERY

[Signature]

NAME/AUTHOR-SIGNATURE

1324 Sunset rd.

ADDRESS

OB WI 54313

(920) 490-3932

PHONE

Per Cap Law Pub. Mtg Minutes testimony 12-15-16

DESCRIPTION OF CONTENTS/MATERIALS RECEIVED WITH INFORMATION OR COMMENTS

12 / 15 / 16

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12:59 p.m.

TIME

[Signature]

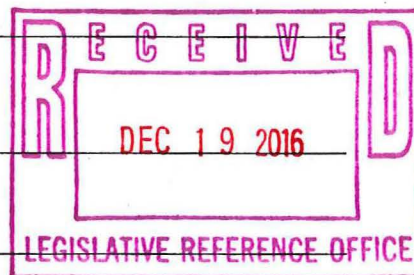
SIGNATURE OF PERSON RECEIVING

[Signature]

SIGNATURE OF WITNESS

THE OFFICE OF THE TRIBAL SECRETARY—ONEIDA BUSINESS COMMITTEE

(SEAL)

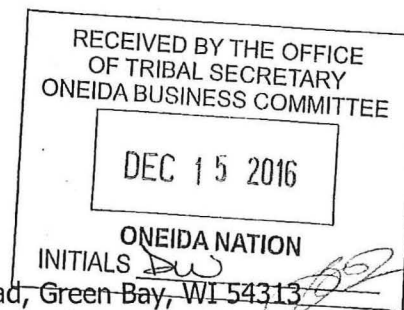


Date: December 15, 2016

To: Lisa Summers, Oneida Tribal Secretary

From: Bonnie Pigman (Roll # 5361), 1324 Swamp Road, Green Bay, WI 54313

RE: Written Testimony for December 15, 2016 Per Capita Law Public Meeting



Dear Madam Secretary,

I request the following changes be considered to Draft 16 of the Per Capita Law presented for Public Meeting December 15, 2016.

1. Insert to section 123.4-6 after Line 128 (will have re-letter "(f)" to "(l)")
 - (f) Unless and until the Trust Enrollment Department creates a Rule to transfer the customer service requests related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests to the Central Accounting Payable Department, the Trust Enrollment Department shall continue to provide all customer services related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests.
2. Insert to section 123.4-7 (starting after Line 147)
 - (e) The Trust Enrollment Department will continue to provide customer service requests related to direct deposit transactions, all stop/void/reissue distribution activities and verification of income requests unless and until the Trust Enrollment Department modifies the customer service procedures to transfer these duties to the Central Accounting Payable Department, by creating a Rule.
3. At the 11/16/2016 Regular LOC meeting there was a lot of discussion regarding the Deceased section (123.5-3, Line 445). From the discussion one suggestion was to add a beneficiary section to the Membership Payment form, eliminating the need to add additional language to the law regarding Probate. I feel if the decision is made to adopt the red-line version of the law, which is to pay deceased members who submit acceptable Membership Payment forms in accordance with the distribution deadline, and to request a new section be added to the Membership Payment form whereas, members can indicate who is to receive their benefit in the event of their death, that the law include language that the new beneficiary designation section also be a required section. So if a Membership Payment form is received by the Trust Enrollment Department and the beneficiary designation section is not completed the Membership Payment form is not considered complete and would not be accepted. No exceptions.

4. Line 458: please correct the following typo: remove the word "a" following the word "When".
5. Line 465: please insert "the" before the word "designated".
6. Line 474: please change the word "income" to "incompetent".
7. Line 600: please insert "certified documentation of medical diagnosis and" at the beginning of the line.



Date: December 22, 2016

To: Lisa Summers, Oneida Tribal Secretary
From: Susan White Trust Enrollment Director *for Susan White*
PO Box 365, Oneida WI 54155
RE: Written Testimony for December 15, 2016 Per Capita Law Public Meeting

Dear Madam Secretary,

I request the following changes be considered to Draft 16 of the Per Capita Law presented for Public Meeting December 15, 2016.

1. Lines 123 and 124: replace the words "the same" with "Tribal members".
2. Line 136: delete the words "trust account".
3. Insert to section 123.4-7 (starting after Line 147)
 - (d) Processes Per Capita Distributions to Payables Ledger.
 - (e) Performs all activities related to fiscal and calendar year end processes, including providing tax documents and tax reporting as required by Tribal, State or Federal Law.
4. Line 190: change to read " The Trust Enrollment Department may not process an attachment on a Tribal member's per"
5. Line 256: change the word "implement" to "process".
6. Line 301: insert after the word [not] "process an attachment on"
7. Line 304: change the word "implement" to "process".
8. Line 385: change "Trust Enrollment Department" to "Nation".
9. Line 392: change the word " deduct" to "process".
10. Line 393: insert after the word [distribution] "as determined by the Oneida Accounting Division.
11. Line 406: change the word "distribute" to "process".
12. Line 409: change the word "distribute" to "process".
13. Line 421: change to read "Department shall process expired fund which are to be deposited in accordance"
14. Lines 443 & 444: change to read "The Trust Enrollment Department shall process refused distribution in accordance with 123.5-5."
15. Lines 445 - 457: change to read as follows:
 - 123.5-3. *Deceased Tribal Members.* Tribal members are ineligible to receive a distribution if his or her death occurs on or before the distribution date. This includes distributions identified to be deposited to trust accounts.
 - (1) The estate of a deceased adult Tribal member may not submit a membership distribution form on behalf of the deceased to claim a distribution.

(2) By running a system generated activity in the AS400 database, the Trust Enrollment Department initiates the movement of per capita funds reserved for deceased adults to the pooled account in accordance with 123.5-5.

The Trust Enrollment Department does not wish to change the intent of the existing Per Capita Law language for Deceased Members (adopted BC-08-14-13-D) as the proposed language would further require other sections of the law to be updated. Other sections affected include; complying with the Oneida Probate process to establish a Personal Representative, which would require adding additional language to the Law. If the requirement was to just pay "claimed" distributions, then what happens when a check cannot be cashed or if the direct deposit gets rejected? There are no provisions identified in the Law determining how these situations get resolved.

Should the decision be to leave the deceased language as it currently reads in draft 16, that the following revisions be made:

- Update the reissued check section of the Law as it only allows for the "Tribal member" to make the request.
- Add "similar" language be added consistent with Probate rules and processes.
- Consider alternatives such as adding a section to the distribution form for beneficiary designation. The section should include the beneficiary name, contact number and address, plus add language that members are require to complete the section, or the form will not be accepted.

16. Line 505: change the word "deposit" to "process".

17. Line 506: remove the words "in a pooled account".

18. Lines 536-548: section 123.5-5 and all references to this section in the law need to be reviewed and corrected due to GTC took action in 2016 removing the Trust Enrollment Committee's responsibility to manage pooled account funds which (effective FY 2017) will go to a expense line for sewer and water.

19. Line 553: insert "Tribal Revenue Allocation Plan" after "IGRA".

20. Line 637: insert "Tribal Revenue Allocation Plan" before "IGRA".



Legislative Operating Committee
January 4, 2017

Budget Management and Control

Submission Date: 9/17/14	Public Meeting: 12/15/16
LOC Sponsor: Brandon Stevens	Emergency Enacted: n/a Expires: n/a

Summary: *This item was deferred to the OBC by the GTC on May 23, 2011 and it was carried over into the current term by the LOC. The request was to develop a law to provide consistent requirements for the Tribal budget process, establish a procedural framework, and address oversight of Tribal expenditures.*

- 9/17/14 LOC:** Motion by Tehassi Hill to add the Budget Management and Control Law to the Active Files List with Brandon Stevens as sponsor; seconded by Fawn Billie. Motion carried unanimously.
- 12/9/15 OBC:** Motion by Lisa Summers to adopt resolution 12-9-15-A Guidance for Implementing Fiscal Year 2016 Budget and Developing Fiscal Year 2017 and Fiscal Year 2018 Budget, seconded by Jennifer Webster. Motion carried unanimously.
- 8/2/16:** *Work meeting held.* Still in draft. Another work meeting scheduled for 8/15/16.
- 8/15/16:** *Work Meeting held.* Still in draft.
- 9/9/16:** *Work meeting held.* Still in draft.
- 9/19/16:** *Work meeting held.* Krystal John, David Jourdan, Chad Fuss, Ralinda Ninham, Trish King, Larry Barton, Denise Vigue, Clorissa Santiago, Wes Martin attended. Draft completed. Krystal John will clean up the draft and it will be put on the 10/5/16 LOC agenda, where a legislative analysis will be requested.
- 10/3/16:** *Work meeting held.* Denise Vigue, Jenny Webster, David Jourdan, Wes Martin, Larry Barton, Ralinda Ninham, Jen Falck. Some changes were suggested. LRO Director will discuss those changes with the drafting attorney (KJ). Another work meeting will be scheduled.
- 10/5/16 LOC:** Motion by Jennifer Webster to accept the Budget Management and Control Law draft and forward to the LRO for a legislative analysis; seconded by Tehassi Hill. Motion carried unanimously.
- 10/19/16:** Quarterly Sponsor Update Meeting. Present: Brandon Stevens, Jennifer Falck, Clorissa Santiago, Maureen Perkins, and Tani Thurner. The analyst has received the draft and will begin analyzing soon.

10/19/16: *Quarterly Sponsor Update Meeting.* Present: Brandon Stevens, Jennifer Falck, Clorissa Santiago, Maureen Perkins, and Tani Thurner. The analyst has received the draft and will begin analyzing soon.

10/20/16LOC: Motion by Jennifer Webster to accept the Budget Management and Control Law draft and forward to the LRO for a legislative analysis; seconded by Tehassi Hill. Motion carried unanimously.

11/16/16LOC: Motion by Tehassi Hill to approve the Budget Management and Control Law public meeting packet and direct the LRO to hold a public meeting on December 15, 2016; seconded by Fawn Billie. Motion carried unanimously.

12/15/16: *Public Meeting held.*

Next Steps:

- Accept the Public Meeting comments and direct the LRO to implement any revisions the LOC requested in the LOC prep meeting.
- Direct the LRO to create an adoption packet for the Budget Management and Control Law with updated materials.



TO: Legislative Operating Committee (LOC)
FROM: Krystal L. John, Oneida Law Office
DATE: January 4, 2017
RE: Budget Management and Control: Public Meeting Comment Review

On December 15, 2016, a public meeting was held regarding the proposed Budget Management and Control law. This memorandum is submitted as a review of the written comments received within the public comment period; no oral comments were presented at the public meeting. The public meeting draft with comments is attached for review.

Comment 1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida entities when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget.

121.1-2. *Policy.* It is the policy of the Nation to rely on value based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement.

Comments

Rae Skenandore – Oral Comment: I have a couple concerns in the Policy and Purpose section, you refer to Oneida entities, Oneida entities includes more than just internal to the tribe. In different laws entities has incorporated corporations, I'm assuming this does not apply to the Budget process of our various corporations but I could be wrong.

Trish King – Oral Comment: I didn't understand the first statement in regards to entities I do not see the word entities in the purpose statement. (BYS – Line 23) For purposes of clarification that could possibly say Oneida Tribal Departments or Oneida Tribal Operations for ease of access, she is correct that does include all the corporate boards, committees and commissions.

Response

Ms. Skenandore correctly identifies that the lack of a definition of "entity" may cause confusion as to whether this applies to corporations or other businesses owned by the Nation. I recommend that all uses of the word "entity" be replaced with the defined term "fund unit."

Comment 2. Capital Improvement Definition

121.3(c) "Capital Improvement" means non-recurring expenditures or any expenditure for physical improvements, including costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations;

acquisition of fixed equipment; landscaping; and similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more.

Comment

Paul J. Witek – Senior Tribal Architect – Written Comments: Recommend adding the word “infrastructure” to the “including costs for:” listing.

If cost of \$5,000.00 matches Capital Expenditure, how will specific project be evaluated as to whether it is a Capital Improvement or Capital Expenditure?

Rae Skenandore – Oral Comment: I’d like to see a definition for value based and under capital improvements line 53 I do not believe acquisition of existing buildings and lands fits under the capital improvements, those are separate acquisitions and I don’t think it’s a CIP. That’s all for now thanks.

Trish King – Oral Comment: In regards to the other statements I think capital improvement could be better clarified as well as value based in the purpose statement.

Response

In regards to including “infrastructure” in the definition of “capital improvement,” I recommend including “physical infrastructure” or a specific list of the items Mr. Witek would like to ensure are included. That being said, it would be a better practice to stay general by leaving it “physical infrastructure” that no items are unintentionally left off of the list.

In regards to the clarification that Mr. Witek is looking for regarding determining the difference between a capital expenditure and capital improvement, I recommend revising the prospective definitions as follows:

“Capital Expenditure” means any non-recurring and non-physical improvement as follows:

“Capital Improvements” means any non-recurring expenditure for physical improvements...

In regards to Ms. Skenandore comment regarding acquisition of existing buildings and land being included as a “Capital Expenditure,” after speaking with the Finance Department, it is clear that instances where the purchase is made by the Oneida Land Commission should not be included in this definition. To capture this, I recommend including a footnote at the end of the definition which states that acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Expenditure.”

In regards to incorporating a definition of “value based” pursuant to its use in the policy statement, I do not believe it is appropriate to add such a definition because the actual contents of the law are implementation of “value-based” budgeting. It is a phrase used in the policy statement that does not require interpretation in order to comply with the requirements of the law.

Comment 3. Fiscal Year Definition

121.3(i) “Fiscal Year” means the one (1) year period each year from October 1st to the September 30th.

Comment

Paul J. Witek – Senior Tribal Architect – Written Comments: Remove the word “the” between referenced dates.

Response

The commenter correctly identifies a grammatical error. The word “the” between the referenced dates

Comment 4. Capital Improvement Plan for Government Services

121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed at the time of the reassessment.

Comment

Paul J. Witek – Senior Tribal Architect – Written Comments: Review of plan only every five years does not allow urgent needs to be addressed by the plan. Suggest allowing revisions to be submitted similar to capital improvement rules for Enterprises.

Response

The intent behind the 5 year review was to keep GTC apprised of what is going on with the Capital Improvement Plan for Government Services provided that it directly impacts the government services offered to GTC members. After discussion with the Finance Department, the only recommended revision to this section is to revise the last sentence of the paragraph so that the section now reads as follows:

121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

Comment 5. Unexpended Capital Improvement Funds

121.7-1. *Unexpended Capital Improvement Funds.* Unless the entity qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted.

Comment

Paul J. Witek – Senior Tribal Architect – Written Comments: How will unexpended funds from completed projects be addressed/reallocated?

Response

This provision will maintain the status quo by reallocating the funds to the project until the project is complete and then, once complete, returning the unexpended funds to the general fund. In order to provide clarity, I recommend revising this section to read as follows:

121.7-1. *Unexpended Capital Improvement Funds.* Unless the entity qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

Comment 6. Budget Transfers

121.9-1. *Budget Transfers.* After the budget is adopted, transfer of funds within the budget is not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved budget as required to accurately reflect the amount of grant funding actually received.

Comment

Paul J. Witek – Senior Tribal Architect – Written Comments: Will current practice OBC approval of transfer of Capital Improvement funds from completed projects to current Capital Improvement projects in need of funding still be available?

Will current practice OBC approval of transfer of Capital Improvement funds from a completed phase of a project to the next phase of project still be available?

Response

Yes, both practices highlighted by Mr. Witek will be maintained in the current draft of the law. The law allows the Oneida Business Committee to approve transfers by providing emergency justification, which is the same practice that is currently followed.

Comment 7. General Comment

Comment

Trish King – Oral Comment: I just wanted to thank the LOC, LRO, Finance Committee and the Law Office for helping us to get this off the ground. This is more so in trying to coordinate our efforts and leave a process and policy in place to better define how we manage our budget development and care take it throughout the year. I just wanted to offer that support and endorsement of the policy and appreciation that we got it this far. Thank you for the work being done.

Response

As this is a general comment of appreciation, there are no recommended revisions based on this comment.

Title 1. Government and Finances – Chapter 121
BUDGET MANAGEMENT AND CONTROL
Twahwistatye>nsha>

We have a certain amount of money

6	121.1.	Purpose and Policy	12	121.7.	Appropriation of the Nation’s Funds
7	121.2.	Adoption, Amendment, Repeal	13	121.8.	Budget Authority
8	121.3.	Definitions	14	121.9.	Budget Transfers; Amendments
9	121.4.	Strategic Planning	15	121.10.	Reporting
10	121.5.	Budget Process	16	121.11.	Authorizations and Signatures
11	121.6.	Capital Improvements	17	121.12.	Enforcement and Penalties

18

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida entities when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget.

121.1-2. *Policy.* It is the policy of the Nation to rely on value based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement.¹

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by Resolution _____.

121.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. 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.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control, provided that nothing in this law amends or repeals the requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. 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) “Appropriation” means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.

¹ **Rae Skenandore – Oral Comment:** I have a couple concerns in the Policy and Purpose section, you refer to Oneida entities, Oneida entities includes more than just internal to the tribe. In different laws entities has incorporated corporations, I’m assuming this does not apply to the Budget process of our various corporations but I could be wrong.

Trish King – Oral Comment: I didn’t understand the first statement in regards to entities I do not see the word entities in the purpose statement. (BYS – Line 23) For purposes of clarification that could possibly say Oneida Tribal Departments or Oneida Tribal Operations for ease of access, she is correct that does include all the corporate boards, committees and commissions.

- 47 (b) “Capital Expenditure” means:
48 (1) Any item with a cost of five thousand dollars (\$5,000.00) or more and an
49 estimated life of one (1) year or more; or
50 (2) Items purchased together where none of the items individually costs more
51 than two thousand dollars (\$2,000.00), but the total purchase price for all of the
52 items is ten thousand dollars (\$10,000.00) or more.
- 53 (c) “Capital Improvement” means non-recurring expenditures or any expenditure for
54 physical improvements, including costs for: acquisition of existing buildings, land, or
55 interests in land; construction of new buildings or other structures, including additions
56 and major alterations; acquisition of fixed equipment; landscaping; and similar
57 expenditures with a cost of five thousand dollars (\$5,000.00) or more and an estimated
58 life of one (1) year or more.²
- 59 (d) “CFO” means the Nation’s Chief Financial Officer.
- 60 (e) “Debt” means the secured or unsecured obligations owed by the Nation.
- 61 (f) “Economic Life” means the length of time an asset is expected to be useful.
- 62 (g) “Executive Manager” means any one of the following positions within the Nation:
63 Chief Executive Officer/General Manager, Gaming General Manager, Chief Legal
64 Counsel and/or Chief Financial Officer.
- 65 (h) “Expenditure Report” means a financial report which includes, but is not limited to, a
66 statement of cash flows, revenues, costs and expenses, assets, liabilities and a statement
67 of financial position.
- 68 (i) “Fiscal Year” means the one (1) year period each year from October 1st to the
69 September 30th.³
- 70 (j) “Fund Unit” means any board, committee, commission, service, program, enterprise,
71 department, office, or any other division or non-division of the Nation which receives
72 an appropriation approved by the Nation.
- 73 (k) “General Reserve Fund” means the Nation’s main operating fund which is used to
74 account for all financial resources not accounted for in other funds.
- 75 (l) “GTC Allocations” means expenditures directed by the General Tribal Council as
76 required payments and/or benefits to the Nation’s membership and are supported by
77 either a General Tribal Council or Oneida Business Committee resolution.
- 78 (m) “Line Item” means the specific account within a fund unit’s budget or category that
79 expenditures are charged to.
- 80 (n) “Manager” means the person in charge of directing, controlling and administering the

² **Paul J. Witek – Senior Tribal Architect – Written Comment:** Recommend adding the word “infrastructure” to the “including costs for:” listing.

If cost of \$5,000.00 matches Capital Expenditure, how will specific project be evaluated as to whether it is a Capital Improvement or Capital Expenditure?

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Trish King – Oral Comment: In regards to the other statements I think capital improvement could be better clarified as well as value based in the purpose statement.

³ **Paul J. Witek – Senior Tribal Architect – Written Comments:** Remove the word “the” between referenced dates.

- 81 activities of a fund unit.
82 (o) “Nation” means the Oneida Nation.
83 (p) “Rule” means a set of requirements, including citation fees and penalty schedules,
84 enacted in accordance with the Administrative Rulemaking law based on authority
85 delegated in this law in order to implement, interpret and enforce this law.
86 (q) “Treasurer” means the elected Oneida Nation Treasurer or his or her designee.
87

88 **121.4. Strategic Planning**

89 **121.4-1. *Triennial Strategic Plan.*** Prior to December 1st of each year, the Oneida Business
90 Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan
91 which includes, but is not limited to:

- 92 (a) Major policy and budgetary goals for the Nation, both long and short term;
93 (b) Specific strategies and planned actions for achieving each goal; and
94 (c) Performance targets and indicators to track progress which, to the extent available,
95 includes, but is not limited to:
96 (1) Statistics and trending data for, at a minimum, the last three (3) complete
97 fiscal years; and
98 (2) Performance targets for, at a minimum, the next three (3) complete fiscal
99 years moving forward.

100 **121.4-2. *Oneida Entities’ Contributions to the Triennial Strategic Plan.*** Managers shall
101 annually develop, submit and maintain a triennial strategic plan for the fund unit’s operations
102 which aligns with the triennial strategic plan established by the Oneida Business Committee
103 pursuant to 121.4-1. Manager shall submit the fund unit’s triennial strategic plan to the CFO
104 when the fund unit’s budget is due and, at a minimum, shall include the following in the plan:

- 105 (a) A statement of the fund unit’s mission;
106 (b) Specific goals including a description of the fund unit’s strategies as part of its service
107 group provided in 121.5-3(c) which aligns with the goals established in the Nation’s
108 triennial strategic plan;
109 (c) Specific strategies for achieving each of the fund unit’s goals; and
110 (d) Performance targets and indicators to track progress which, to the extent available,
111 includes, but is not limited to:
112 (1) Statistics and trending data for, at a minimum, the last three (3) complete
113 fiscal years; and
114 (2) Performance targets for, at a minimum, the next three (3) complete fiscal
115 years moving forward.

116 **121.4-3. *Budget Contingency Plan.*** The Oneida Business Committee shall work with the CFO,
117 executive managers and managers to create a budget contingency plan which provides a strategy
118 for the Nation to respond to extreme financial distress that could negatively impact the Nation.
119 The Oneida Business Committee shall approve, by resolution, the budget contingency plan and
120 any amendments thereto. The Oneida Business Committee is responsible for the implementation
121 of the budget contingency plan, provided that such implementation is predicated on the Oneida
122 Business Committee’s determination that the Nation is under extreme financial distress. For the
123 purposes of this section, extreme financial distress includes, but is not limited to, natural or
124 human-made disasters, United States Government shutdown, Tribal shutdown (which occurs
125 when the General Tribal Council has not approved a budget for the Nation prior to the beginning
126 of a new fiscal year) and economic downturns.

127 (a) *Cost Savings Tools*. As part of the budget contingency plan, the Oneida Business
128 Committee may require stabilization funds, reductions of expenditures, furloughs and
129 other cost saving tools provided that such tools are in compliance with the Nation's laws,
130 specifically the Nation's employment laws, rules and policies.

131 (b) *Business Continuity Fund*. The Oneida Business Committee shall maintain a
132 Permanent Executive Contingency account within the ownership investment report to be
133 used to prevent default on debt and to sustain operations during times of extreme
134 financial distress. The Treasurer, in consultation with the CFO, shall establish, and the
135 Oneida Business Committee shall approve, the level of business continuity funds required
136 in the Permanent Executive Contingency account. The Treasurer shall set aside business
137 continuity funds in the Permanent Executive Contingency account until the established
138 level has been achieved. Funds in the Permanent Executive Contingency may only be
139 used for the following purposes and only to the extent that alternative funding sources are
140 unavailable:

- 141 (1) Payments to notes payable to debt service, both principal and interest, and
142 applicable service fees;
- 143 (2) Employee payroll, including all applicable taxes;
- 144 (3) Payments to vendors for gaming and retail;
- 145 (4) Payments to vendors for governmental operations;
- 146 (5) Payments to any other debt; and
- 147 (6) To sustain any of the Nation's other operations during implementation of the
148 budget contingency plan.

149 (c) *Grant Funds*. Grant funds are exempt from requirements of the budget contingency
150 plan and any cost containment initiatives as such funding is not reliant on Tribal
151 contributions. Grant funds shall be spent according to any non-negotiable grant
152 requirements and guidelines of the granting agency to include purchases, travel, training,
153 hiring grant required positions and any other requirements attached to the funds as a
154 condition of the Nation's acceptance of the grant funds.

155 **121.5. Budget Process**

156 121.5-1. *General*. All revenues and expenditures of the Nation shall be in accordance with the
157 annual budget adopted by the General Tribal Council. In creating the budget to present to the
158 General Tribal Council for consideration, the Oneida Business Committee, executive managers
159 and managers shall follow the processes provided in this law. The Oneida Business Committee
160 may alter the deadlines provided in this law only upon a showing of good cause, provided that,
161 the Oneida Business Committee shall approve any such alterations by resolution.

162 121.5-2. *Community Input Budget Meeting(s)*. The Treasurer's office shall schedule, at a
163 minimum, one (1) community input budget meeting(s) prior to December 1st of each year. At the
164 community budget input meeting(s), the Treasurer shall afford community members an
165 opportunity to provide input as to what should be included in the upcoming fiscal year budget.
166 Any fund units that plan to request forecast variations for the upcoming budget shall present the
167 need and anticipated dollar amount of the requested forecast variation. For the purposes of this
168 section, a forecast variation is a fund unit's requested deviation from the performance targets the
169 fund unit submitted pursuant to 121.4-2(d)(2).

170 (a) The Treasurer shall ensure the community budget input meeting(s) are voice recorded
171 and transcribed.
172

173 (b) The CFO shall provide recommendations as to any forecast variations requested by
174 fund units.

175 (c) The CFO and any relevant managers shall provide responses and/or recommendations
176 to all comments and considerations presented by community members.

177 (d) The Treasurer shall work with the CFO to place a community budget input meeting
178 packet on the Oneida Business Committee agenda no later than the last Oneida Business
179 Committee Meeting in January. At a minimum, the packet is required to include:

180 (1) The community budget input meeting(s) transcript(s);

181 (2) Any applicable fund unit's requested forecast variations; and

182 (3) Responses and/or recommendations by the CFO and any relevant managers
183 regarding requests for forecast variations and community members' comments
184 and considerations related to forecast variations.

185 121.5-3. *Priority List Established by the Oneida Business Committee.* The Oneida Business
186 Committee shall review the community budget input meeting packet and shall hold work
187 meetings to create a priority list.

188 (a) The Oneida Business Committee shall establish the priority list by placing the
189 following services provided by the Nation in chronological order with the lowest number
190 having the highest priority. The order of the following service groups provided below
191 has no relation to the service groups' anticipated and/or required placement within the
192 Oneida Business Committee's priority list; the Oneida Business Committee's priority list
193 may vary from year to year based on the needs of the Nation.

194 (1) Protection and Preservation of Natural Resources

195 (2) Protection and Preservation of Oneida Culture and Language

196 (3) Education and Literacy

197 (4) Health Care

198 (5) Economic Enterprises

199 (6) Building and Property Maintenance

200 (7) Human Services

201 (8) Public Safety

202 (9) Housing

203 (10) Utilities, Wells, Wastewater and Septic

204 (11) Planning, Zoning and Development

205 (12) Membership Administration

206 (13) Government Administration

207 (b) The Oneida Business Committee shall approve the priority list by resolution no later
208 than the last meeting in February.

209 (c) The CFO shall maintain a list which places each fund unit into a corresponding
210 service group.

211 121.5-4. *Annual Proposed Budgets.* The CFO shall develop the necessary guidelines, including
212 specific deadlines, to be followed by the managers that have budget responsibility in preparing
213 and submitting proposed budgets. Upon review of the Nation's economic state, the CFO shall
214 include in the guidelines the exact amount that each service group's cumulative budget is
215 required to be increased/decreased in accordance with its placement on the priority list. The
216 CFO shall submit the guidelines, as approved by the Treasurer, to the Oneida Business
217 Committee for review in accordance with the deadline as set by the Oneida Business Committee.
218 The Oneida Business Committee may revise the guidelines as it deems necessary and shall

219 approve a set of budgetary guidelines within thirty (30) calendar days of the date the budgetary
220 guidelines proposed by the CFO were received.

221 (a) In accordance with the approved budgetary guidelines, fund units offering like
222 services shall meet together to review each fund unit's budget and discuss strategies for
223 attaining compliance with the approved budgetary guidelines. Each service group shall
224 submit one (1) draft budget which contains each fund unit's individual proposed budget
225 and demonstrates cumulative compliance with the approved budgetary guidelines.

226 (b) The CFO shall receive, review and compile the proposed budgets into the Nation's
227 draft budget which the CFO shall present to the Oneida Business Committee no later than
228 the last Oneida Business Committee meeting in May. The CFO may not alter any
229 proposed budgets until such budgets have been reviewed by the Oneida Business
230 Committee.

231 (1) The CFO shall return any service group's draft budget that is in non-
232 compliance with the approved budgetary guidelines within ten (10) business days
233 of the date the budget was submitted to the CFO.

234 (2) Upon return, the CFO shall notice the service group of the amount of its non-
235 compliance and provide the service group with a deadline for a compliant
236 resubmission.

237 (3) Any service group's budget that remains in non-compliance upon the
238 expiration of the deadline provided by the CFO shall be included in the draft
239 budget submitted to the Oneida Business Committee noting the dollar amount of
240 the service group's non-compliance. A service group's continued non-
241 compliance may result in employee discipline according to the Nation's
242 employment laws, rules and policies.

243 121.5-5. *Content of Budget.* The CFO shall present the Nation's draft budget to the Oneida
244 Business Committee for review each year to ensure that it is consistent with the Nation's
245 spending priorities and budget strategy. The Nation's draft budget shall include, but is not
246 limited to:

247 (a) Estimated revenues to be received from all sources for the year which the budget
248 covers;

249 (b) The individual budgets of each fund unit;

250 (c) A description of each line item within each fund unit's budget;

251 (d) The estimated expenditures by each fund unit; and

252 (e) Each fund unit's strategic plan showing alignment with the Nation's goals.

253 121.5-6. *Review of Draft Budget.* In the month of May, the CFO shall meet with the Oneida
254 Business Committee to review the draft budget and provide any recommendations for
255 modifications.

256 (a) Following the Oneida Business Committee's review of the draft budget with the
257 CFO, the Oneida Business Committee shall schedule meetings with managers of each
258 fund unit for which the Oneida Business Committee is considering altering the fund
259 unit's proposed budget.

260 (b) The Oneida Business Committee shall complete all meetings with fund unit managers
261 required by this section by the end of June each year.

262 121.5-7. *Final Draft Budget.* The Oneida Business Committee shall work with fund unit
263 managers and the CFO to compile a final draft budget to be presented to the General Tribal

264 Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to
265 be presented to the General Tribal Council by the end of July each year.

266 121.5-8. *Community Meetings.* Once the Oneida Business Committee has approved the final
267 draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings
268 to present the contents of the final draft budget that will be presented to the General Tribal
269 Council.

270 121.5-9. *Budget Adoption.* The Oneida Business Committee shall present the budget to the
271 General Tribal Council with a request for adoption by resolution no later than September 30th of
272 each year. In the event that the General Tribal Council does not adopt a budget by September
273 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such
274 time as a budget is adopted.

275

276 **121.6. Capital Improvements**

277 121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee
278 shall develop and the General Tribal Council shall approve a capital improvement plan for
279 government services and shall reassess the plan once every five (5) years. The capital
280 improvement plan for government services shall cover a period of five (5) to ten (10) years and
281 shall include any risks and liabilities. The Oneida Business Committee shall provide a status
282 report and recommendation for any improvements that have not been completed at the time of
283 the reassessment.⁴

284 121.6-2. *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises
285 may be brought forward as needed in accordance with the capital improvement rules which the
286 Community Development Planning Committee and the Development Division shall jointly
287 create, provided that the rules shall include a provision that the Oneida Business Committee shall
288 approve all capital improvement plans.

289 121.6-3. *Capital Improvement Plan Implementation.* Capital Improvement plans shall be
290 implemented, contingent on available funding capacity, using the capital improvement rules.

291

292 **121.7. Appropriation of the Nation's Funds**

293 121.7-1. *Unexpended Capital Improvement Funds.* Unless the entity qualifies for an exception
294 as provided in the capital improvement rules, unexpended capital improvement funds carry over
295 to the next fiscal year's budget, provided that such funds are required to remain appropriated for
296 the same purpose as originally budgeted.⁵

297 121.7-2. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended
298 capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the
299 fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in
300 accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular
301 budget process under 121.5.

302

⁴ **Paul J. Witek – Senior Tribal Architect – Written Comment:** Review of plan only every five years does not allow urgent needs to be addressed by the plan. Suggest allowing revisions to be submitted similar to capital improvement rules for Enterprises.

⁵ **Paul J. Witek – Senior Tribal Architect – Written Comment:** How will unexpended funds from completed projects be addressed/reallocated?

303 **121.8. Budget Authority**

304 121.8-1. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is
305 delegated to the CFO, who shall make such expenditures in accordance with the adopted budget.
306 This authority is necessarily delegated to other managers, including executive managers, of the
307 Nation who manage the budgets, pursuant to their job descriptions based on the procurement
308 manual rules developed by the Purchasing Department.

309 121.8-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as
310 applicable to a function for which the Nation's funds have also been appropriated, those grant
311 funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed
312 to make up an otherwise shortfall in the overall business unit budget or there is a restriction on
313 the grant funds that provide otherwise.

314 121.8-3. In addition to the authority and responsibilities provided elsewhere in this law, the
315 following positions and entities shall have the authority and responsibilities as outlined below:

316 (a) *Oneida Business Committee.* Once the Nation's annual budget is adopted by the
317 General Tribal Council, the authority of the Oneida Business Committee is limited to
318 budget oversight except as otherwise provided in this law. However, these limitations do
319 not prevent the Oneida Business Committee, with input from the CFO, from taking
320 necessary action, on an emergency basis and within the scope of its authority, to protect
321 and safeguard the resources and general welfare of the Nation and ensure compliance
322 with applicable laws, regulations and requirements. The OBC shall ensure that the CFO
323 performs the duties and responsibilities as assigned under this law.

324 (b) *The Nation's Treasurer.* In addition to the Treasurer's Constitutional responsibilities,
325 the Nation's Treasurer shall:

326 (1) Submit expenditure reports and other financial reports as deemed necessary by
327 the Oneida Business Committee and/or the General Tribal Council at:

328 (A) The annual General Tribal Council meeting;

329 (B) The semi-annual General Tribal Council meeting; and

330 (C) Other such times as may be directed by the Oneida Business
331 Committee and/or the General Tribal Council.

332 (2) Present the proposed draft budget to the General Tribal Council at the annual
333 budget meeting as required by section 121.5-9.

334 (c) *Chief Financial Officer.* Once the Nation's budget is properly adopted, the CFO shall
335 ensure that it is properly implemented. The CFO shall:

336 (1) Provide managers with monthly revenue and expense reports in order for the
337 managers to track their expenditures;

338 (2) Submit, to the Oneida Business Committee, a written report of any monthly
339 variances that are either a difference of three percent (3%) or more from the
340 adopted annual budget or \$50,000 or more in total; and

341 (3) Conduct financial condition meetings with the Nation's management on a
342 quarterly basis.

343 (d) *Managers.* Managers of each business unit shall:

344 (1) Ensure that their business units operate, on a day-to-day basis, in compliance
345 with the budget adopted pursuant this law;

346 (2) Report to the CFO explanations and corrective actions for any monthly
347 variance that are either a difference of three percent (3%) or more from the
348 adopted annual budget or \$50,000 or more in total; and

349 (3) Submit budget review reports to the CFO on a reasonable and timely basis not
350 to exceed thirty (30) calendar days from the end of the month.
351

352 **121.9. Budget Transfers; Amendments**

353 121.9-1. *Budget Transfers.* After the budget is adopted, transfer of funds within the budget is
354 not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the
355 approved budget as required to accurately reflect the amount of grant funding actually received.⁶

356 121.9-2. *Budget Amendments.* After the budget is adopted, amendments of the budget are not
357 permitted except as provided in section 121.8-3(a).
358

359 **121.10. Reporting**

360 121.10-1. *Monthly Reporting.* The CFO shall provide copies of the monthly Treasurer's reports
361 and quarterly operational reports from direct reports to the Oneida Business Committee in
362 accordance with Secretary's Oneida Business Committee packet schedule for the Oneida
363 Business Committee Meeting held for the acceptance of such reports.

364 121.10-2. *Audits.* The Internal Audit Department, annually, shall conduct independent
365 comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting
366 Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of
367 randomly selected business units or of business units deemed necessary by the Oneida Business
368 Committee or Internal Audit Department. Each business unit shall offer its complete cooperation
369 to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary,
370 contract with an independent audit firm to conduct such audits.
371

372 **121.11. Authorizations and Signatures**

373 121.11-1. *General.* The procurement manual rules developed by the Purchasing Department
374 shall provide the sign-off process and authorities required to expend funds on behalf of the
375 Nation.

376 121.11-2. *Fees and Charges.* Managers of programs and services requiring Tribal contribution
377 that desire to charge fees for their services shall determine the full cost of providing the program
378 and/or service and, only then, may charge fees to cover operational costs. The full cost of
379 providing a program and/or service includes all costs including operation costs, overhead such as
380 direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service
381 and/or service whenever such fee or charge would not present an undue financial burden to
382 recipient. Programs and services charging fees may offer fee waivers, provided that the
383 program/service has developed rules outlining the fee waiver eligibility and requirements.
384

385 **121.12. Enforcement**

386 121.12-1. *Compliance and Enforcement.* All employees and elected officials of the Nation shall
387 comply with and enforce this law to the greatest extent possible.

⁶ **Paul J. Witek – Senior Tribal Architect – Written Comment:** Will current practice OBC approval of transfer of Capital Improvement funds from completed projects to current Capital Improvement projects in need of funding still be available?

Will current practice OBC approval of transfer of Capital Improvement funds from a completed phase of a project to the next phase of project still be available?

388 121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement
389 tools provided by the Nation’s laws, policies and rules, including but not limited to, those related
390 to employment with the Nation, the Conflict of Interest Policy, the Code of Ethics and the
391 Removal law.

392 121.12-3. *Civil and/or Criminal Charges.* This law shall not be construed to preclude the Nation
393 from pursuing civil and/or criminal charges under applicable law. Violations of applicable
394 federal or state civil and/or criminal laws may be pursued in a court having jurisdiction over any
395 such matter.

396
397
398
399

*End.*⁷

⁷ **Trish King – Oral Comment:** I just wanted to thank the LOC, LRO, Finance Committee and the Law Office for helping us to get this off the ground. This is more so in trying to coordinate our efforts and leave a process and policy in place to better define how we manage our budget development and care take it throughout the year. I just wanted to offer that support and endorsement of the policy and appreciation that we got it this far. Thank you for the work being done.



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING
Budget Management and Control Law Amendments**
Business Committee Conference Room-2nd Floor Norbert Hill Center
December 15, 2016 12:45 p.m.

Present: Jennifer Webster, Tehassi Hill, Brandon Stevens, David P. Jordan, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jeremy Wheelock, Bonnie Pigman, Chad Wilson, Rae Skenandore, Nicole Steuber, Gene Schubert, Laura Manthe, Edward Delgado, Gary Wheelock, Trina Villegas, Michele Doxtator, Leyne Orosco, Danelle Wilson, Trish King.

Brandon Stevens: This time at 12:45 p.m. I call the public meeting to order for the Budget Management and Control Law. The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding these legislative proposals. All persons who wish to present oral testimony need to register on the sign in sheet at the back of the room.

Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Thursday December 22, 2016.

In attendance from the LOC is:

LOC Chair Brandon Stevens
Councilman David Jordan
Councilman Tehassi Hill
Councilwoman Jennifer Webster

We will begin today's public meeting for the Budget Management and Control Law. This is a proposal that would:

- Require a triennial (3 year) strategic planning with short and long term policy and budget goals at both the OBC and departmental level.
- Provide a budget contingency plan to respond to extreme financial distress to include cost savings tools and a business continuity fund.
- Require community input in the budget development process.
- Require the OBC to create a priority list of services provided by the Nation and use the list to distribute the budget. Also, requires funding units with like services to meet and formulate a plan to meet budgetary requirements for their service group. Include guidelines and implementation requirements for capital improvement plans for government services and enterprises.

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

- Provide guidelines for expending the Nation's funds in accordance with the adopted budget.
- Restrict budget transfers once budgets are adopted by the GTC.
- Provide reporting and auditing requirements.
- Codify sign-off authority and delegate rulemaking authority for developing fees and charges for services provided.
- Provide compliance and enforcement mechanisms for violations of this law.
- And finally, include timelines for draft budget completion prior to presentation to GTC for adoption.

We will set a time limit of five (5) minutes maximum for oral testimony. No one is signed up for Budget Management and Control Law to speak. If anyone else would like to speak please come forward and sign the sheet.

Rae Skenandore: I have a couple concerns in the Policy and Purpose section, you refer to Oneida entities, Oneida entities includes more than just internal to the tribe. In different laws entities has incorporated corporations, I'm assuming this does not apply to the Budget process of our various corporations but I could be wrong. I'd like to see a definition for value based and under capital improvements line 53 I do not believe acquisition of existing buildings and lands fits under the capital improvements, those are separate acquisitions and I don't think it's a CIP. That's all for now thanks.

Brandon Stevens:– We will get you the answers to the first one we will have to figure that one out, we will make it clear though it should be consistent. If it is not consistent we'll find the language.

Trish King: I just wanted to thank the LOC, LRO, Finance Committee and the Law Office for helping us to get this off the ground. This is more so in trying to coordinate our efforts and leave a process and policy in place to better define how we manage our budget development and care take it throughout the year. I just wanted to offer that support and endorsement of the policy and appreciation that we got it this far. In regards to the other statements I think capital improvement could be better clarified as well as value based in the purpose statement. I didn't understand the first statement in regards to entities I do not see the word entities in the purpose statement. (BYS – Line 23) For purposes of clarification that could possibly say Oneida Tribal Departments or Oneida Tribal Operations for ease of access, she is correct that does include all the corporate boards, committees and commissions. Thank you for the work being done.

Brandon Stevens: With there being no more speakers registered, the public meeting for the Budget Management and Control Law is now closed at 12:51 p.m. Written comments may be submitted until close of business on Thursday December 22, 2016.

-End of Meeting-

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



To: Legislative Reference Office
 From: Paul J. Witek – Senior Tribal Architect
 CC: James Petitjean – Development Division
 Troy Parr – Development Division
 Date: 12/21/2016
 Re: Budget Management and Control Law – Public Comment

In review of the proposed law (Draft 12, dated 11/16/2016), I offer the following comments:

Line No.:	Paragraph	Comment
53	121.3-1 (c)	Recommend adding the word “infrastructure” to the “including costs for:” listing.
57	121.3-1 (c)	If cost of \$5,000.00 matches Capital Expenditure, how will specific project be evaluated as to whether it is a Capital Improvement or Capital Expenditure?
68	121.3-1 (i)	Remove the word “the” between referenced dates.
279	121.6-1 (c)	Review of plan only every five years does not allow urgent needs to be addressed by the plan. Suggest allowing revisions to be submitted similar to capital improvement rules for Enterprises.
293	121.7-1	How will unexpended funds from completed projects be addressed/reallocated?
353	121.9-1	Will current practice OBC approval of transfer of Capital Improvement funds from completed projects to current Capital Improvement projects in need of funding still be available?
	121.9-1	Will current practice OBC approval of transfer of Capital Improvement funds from a completed phase of a project to the next phase of project still be available?



**LEGISLATIVE REFERENCE OFFICE
STANDARD OPERATING PROCEDURE**



Title: Public Meeting SOP
Origination Date: January 4, 2017
Revision Date: N/A
Author: LRO
Approvals:

Brandon Stevens 12/29/16 *J. A. Falck* 12/29/16

Brandon Stevens, LOC Chair

Date

Jennifer Falck, LRO Director

Date

- 1.0 PURPOSE.** To formalize the public meeting process. Public meetings are required for all legislation except for emergency legislation.
- 2.0 DEFINITIONS**
- 2.1 “LOC” means the Legislative Operating Committee.
- 2.2 “LRO” means the Oneida Legislative Reference Office.
- 2.3 “OBC” means the Oneida Business Committee.
- 3.0 REQUIREMENTS**
- 3.1 The Legislative Procedures Act contains requirements related to public meetings.
- 3.1.1 The public meeting notice, legislation, legislative analysis and fiscal analysis, if available, shall be made publically available for a minimum of 10 business days before a public meeting is held.
- 3.1.1.1 On the Oneida Register
- 3.1.1.2 Electronically provided to all managers and directors
- 3.1.1.3 The public meeting notice only shall be published in the Kalihwisaks or other Tribal publication of similar distribution.
- 3.1.2 The public meeting shall be presided over by at least one LOC member.
- 3.1.3 All persons who present oral testimony at a public meeting shall register.
- 3.1.4 The presiding LOC member may impose a time limit of no less than five (5) minutes for oral testimony. If a time limit is imposed, it must be identified prior to the start of the public meeting and shall be imposed consistently.
- 3.1.5 The public comment period shall remain open for no less than five (5) business days after the public meeting is held.
- 4.0 LOC ACCEPTANCE**
- 4.1 LOC officially accepts the public meeting packet through formal motion at an LOC meeting.
- 4.2 LOC directs the LRO to schedule a public meeting.
- 5.0 PUBLIC MEETING NOTICE AND PACKET**
- 5.1 The drafting attorney shall be responsible for preparing the public meeting notice and assembling the public meeting packet; unless the LRO Director assigns a

different staff member.

- 5.2 Each item in the public meeting packet shall be saved in the specific active file folder for the item (G:\LOC\WP\Active Files) as well as the public meeting folder (G:\LOC\WP\Public Meetings).

6.0 ONEIDA REGISTER

- 6.1 The drafting attorney shall be responsible for ensuring the public meeting packet is posted to the Oneida Register once the packet is approved by the LOC. The drafting attorney shall ensure the packet is posted at least ten (10) business days prior to the scheduled public meeting to meet the requirements set out in the Legislative Procedures Act.

7.0 KALIHWISAKS

- 7.1 The drafting attorney shall ensure the public meeting notice only is received and verified by Kalihwisaks staff for print in the specific issue to meet the ten (10) business day notice requirement.

8.0 ELECTRONIC NOTICE TO MANAGERS AND DIRECTORS

- 8.1 The drafting attorney will electronically send the public meeting packet to the LOC meeting packet list (G:\LOC\WP\2014-2017 Active Files List\Contacts) and any individuals listed as contacts under the particular item identified in the active files list as an appointment at least ten (10) business days prior to the public meeting.
- 8.2 The appointment notice shall include language that identifies why the recipient is receiving the notice and direct that the manager or director forward the notice to any employee that may have special knowledge or expertise on the legislation.
- 8.2.1 For example, "The Legislative Procedures Act requires that all managers or directors shall be electronically provided notice at least ten business days prior to a public meeting. The Legislative Procedures Act requires all appropriate managers or directors to direct employees who have special knowledge or expertise on legislation to provide comments during the public comment period [See Legislative Procedures Act 16.8-2 (a) & 16.8-4 (a)]."

9.0 PUBLIC MEETING COMMENT MEMO

- 9.1 The drafting attorney shall compile all comments received orally and in writing in a public meeting comment memo. The memo shall provide responses and objective recommendations and alternatives, when pertinent, for changes to the law for the LOC to consider. Public comments shall:
- 9.1.1 Be accepted by the LOC for at least five (5) business days after the public meeting is held.
- 9.1.2 Be formally presented to and accepted by official motion at an LOC meeting.
- 9.1.3 Be fully considered by the LOC in an LOC meeting or work meeting.

10.0 DIRECTED CHANGES

- 10.1 The drafting attorney shall make appropriate changes to the law as directed by the

LOC.

11.0 SUBSTANTIAL CHANGE

11.1 Changes deemed to be substantial by the LOC will require an additional public meeting. In this case, the law cycles back through the public meeting process beginning at 4.0 of this SOP.

12.0 LAW CONSIDERATION

12.1 Once all changes have been made and accepted by LOC with no additional public meeting requirements, the LOC directs the LRO to prepare an adoption packet. The adoption packet is formally accepted by the LOC in an LOC meeting and forwarded to the Business Committee for consideration.



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



AGENDA REFERRAL FORM

- 1) Today's Date: December 28, 2016 Date of Referral Action: October 12, 2016
- 2) Entity that referred this item to the LOC: OBC (Executive Session)
- 3) Individuals or Entities to contact regarding this item: Melinda J. Danforth, Sponsor

- 4) Item referred:
Department of Pubic Works HVAC Contracts

- 5) Background information, including applicable actions and dates: _____
Motion by David Jordan to defer this item to the Legislative Operating Committee,
Law Office, and Purchasing Department to develop policies and solutions; and for
an update to be brought back within sixty (60) days, seconded by Jennifer Webster.
Motion carried with Fawn Billie abstaining.

- 6) Due Date: 1/4/2017

Please send this form and all supporting materials to:

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



Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chair *BS*
DATE: December 28, 2016
RE: Update Regarding DPW HVAC Contracts

On October 12, 2016 the Oneida Business Committee made the following motion regarding the Departments of Public Works HVAC contracts:

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

This memorandum serves as an update as directed by the Oneida Business Committee. The Legislative Operating Committee (LOC) is in the process of reviewing both the Independent Contractor Policy and the Indian Preference in Contracting Law to determine if 1) there is a conflict that affects DPW's HVAC contracts and 2) if revisions are needed to one or both of the identified laws/policies.

January 2017

January 2017

Su	Mo	Tu	We	Th	Fr	Sa
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29	30	31				

February 2017

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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

	Monday	Tuesday	Wednesday	Thursday	Friday
Jan 2 - 6	Jan 2	3	4	5	6
Jan 9 - 13	9	10	11 BC Meeting (BCCR)	12	13
Jan 16 - 20	16	17	18	19	20
Jan 23 - 27	23	24	25 BC Meeting (BCCR)	26	27
Jan 30 - Feb 3	30	31	Feb 1	2	3

February 2017

February 2017

Su	Mo	Tu	We	Th	Fr	Sa
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2017

Su	Mo	Tu	We	Th	Fr	Sa
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	Monday	Tuesday	Wednesday	Thursday	Friday
	Jan 30	31	Feb 1	2	3
Jan 30 - Feb 3					
	6	7	8	9	10
Feb 6 - 10			BC Meeting (BCCR)		
	13	14	15	16	17
Feb 13 - 17					
	20	21	22	23	24
Feb 20 - 24			BC Meeting (BCCR)		
	27	28	Mar 1	2	3
Feb 27 - Mar 3					