

NOTICE OF
PUBLIC MEETING

TO BE HELD
Thursday, May 19th at 12:15 p.m.
IN THE
OBC CONFERENCE ROOM
(2nd FLOOR—NORBERT HILL CENTER)

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

TOPIC: PER CAPITA LAW

This is a proposal to amend the Garnishment law which would:

- ◆ Reduce the frequency of per capita distributions to elders while still maintaining the elders payments by placing elders on the same distribution schedule as adults [see 9.5-2 and 9.4-6(a)];
- ◆ Reduce the processing of adult per capita payments by eliminating the submission of the notarized form for adult members who have direct deposit on file with the Trust Enrollment Department [see 9.5-2(b)(1)(A)];
- ◆ Create the majority age beneficiary category distinct from minor beneficiary [see 9.3-1(j)];
- ◆ Establish bank fees for closed accounts and returned distributions [see 9.5-2(d)(2) and 9.5-2(e)(2)(B)];
- ◆ Transfer the Trust Enrollment Committees hearing authority to the Oneida Judiciary [see 9.7-1]; and
- ◆ Revise the attachment process to allow entities to collect debt owed to the Nation without requiring a court order [see 9.4-9(d)].

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

PUBLIC COMMENT PERIOD
OPEN UNTIL May 26, 2016

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

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



Chapter 9
Per Capita
Shakotiw\$ Stawih# Olihwa@ke

Issues concerning where they give the money Analysis Draft # 4 to Draft 12

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

1 **Overview**

2 The proposed Per Capita law amendments were requested by the Trust Department to

3 reduce the frequency of per capita distributions to elders while still maintaining the elders

4 payments by placing elders on the same distribution schedule as adults, reduce the processing of

5 adult per capita payments by eliminating the submission of the notarized form for adult members

6 who have direct deposit on file with the Enrollment Department, create the majority age

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7 beneficiary category distinct from minor beneficiary, and establish bank fees for closed accounts
8 and returned distributions. Additional amendments include: repeals BC resolution 11-06-02-A,
9 merges Trust and Enrollment Departments into one Trust Enrollment Department, recognizes the
10 Trust Enrollment Committee (the current law recognizes the Trust Committee), eliminates
11 deadlines related to attachments, eliminates the requirement for Oneida entities to receive an
12 attachment order from the Judiciary unless an attachment hearing is requested and eliminates the
13 role of the Trust Enrollment Committee to hold administrative hearings.

14
15 **Analysis was requested regarding the following resolutions:**

- 16 **BC Resolution 11-06-02-A**
 - 17 o This resolution amended the Per Capita Ordinance to create a separate per capita
18 payment schedule for elders who turn 62 and 65 in a distribution year. The
19 amendments added age 65 to the definition of elder in the Per Capita Ordinance.
20 The resolution also established that elders who turn 62 or 65 by December 31st
21 were to receive the respective elders’ per capita payment for that September 30th
22 distribution year. Those who turn 62 or 65 after September 30th were to receive
23 their respective first time elder per capita payment in the month following their
24 birth date. This establishes that there are additional elders payments sent after
25 September 30th of a distribution year for those who are turning 62 and 65 after
26 September 30 of that distribution year.
 - 27 ▪ The proposed amendments still honor December 31st as the cut off for
28 elders who reach the age determined by the GTC resolution in the
29 distribution year that takes place on September 30th. These distributions;
30 however, will occur on September 30th along with all adult distributions.
31 Elders who reach age categories established by the GTC resolution
32 between October 1st and December 31st will receive their elders’ payments
33 early on September 30th of that distribution year.
 - 34 ▪ BC Resolution 11-06-02-A conflicts with the proposed amendments in
35 that there is not a separate schedule for elders’ payments in the proposed
36 law as established by this resolution. Elders are classified as adults in the
37 definition and therefore follow the adult distribution timeline.
 - 38 ▪ Adult is defined as a Tribal member who is at least eighteen (18)
39 years of age on or before September 1st of a given year [*See 9.3-*
40 *1(a)*].

	BC Resolution 11-06-02-A	Current Law	Proposed Amendments
definition	Elder: shall mean those tribal members who are age 62 years or over, or 65 years or over, as of	(e) “Elder” shall mean those Tribal members who are age 62 years or over, or 65 years or over, as of December 31st of a given year.	9.3-1 “Adult” means a Tribal member who is at least eighteen (18) years of age on or before September 1 st of a given year. 9.7-2(1) For the purposes of this section, elder means a Tribal

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

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- o **Impact.** BC Resolution 11-06-02-A conflicts with the proposed amendments.
 - This law repeals BC Resolution 11-06-02-A considering that elders will still receive their elders' payments in the distribution year according to the proposed Per Capita Law amendments.
 - **Special BC Resolution 1-28-04-A**
 - o This resolution was passed at the Special BC meeting held in lieu of the GTC Annual Meeting due to a lack of quorum. This resolution designates the interest from the unclaimed unallocated per capita pooled account to be applied to the Oneida Language Revitalization Program.
 - o Please note that the pooled account itself has not been designated for use by the GTC through this resolution; only the interest from the account was allocated, the principal of the account shall not be depleted.
 - o **Impact.** This resolution has no legislative impact on the proposed amendments.

Proposed Amendments

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

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- 60 ■ **Repeals BC Resolution 11-06-02-A**
- 61 ○ **Impact.** The separate process for elders’ per capita distributions has been
- 62 eliminated; all adult distributions will follow the same distribution schedule.
- 63 ■ **Trust Enrollment Committee.** Added responsibilities include: provide input to the
- 64 Finance Department regarding per capita matters included in the Nation’s revenue
- 65 allocation plan [*see 9.4-5(c)*].
- 66 ○ **Impact.** No legislative impact or conflict.
- 67 ■ **Trust Enrollment Department.** Added responsibilities include:
- 68 ○ Ensure the availability and liquidity of funds for transfer of the trust funds under
- 69 the authorization of the Trust Enrollment Committee [*see 9.4-6(f)*].
- 70 ○ Calculate attachment amounts for collection of Oneida entity debts and implement
- 71 Oneida entity attachments [*see 9.4-6(l)*].
- 72 ○ **Impact.** No legislative impact or conflict.
- 73 ■ **Tribal Treasurer.** Duties removed:
- 74 ○ Make a payment to those Tribal members responding to the membership payment
- 75 form deadline who are not minors or incompetent adults [*see 9.7-5(a) of current*
- 76 *law*].
- 77 ○ Cover unverified member payments for those members who are unresponsive to
- 78 the membership payment form deadline [*see 9.7-5(b) of current law*].
- 79 ■ **Impact.** No legislative impact or conflict.
- 80 ■ **Deadlines.** Deadlines regarding attachments were removed throughout the law to
- 81 eliminate the need to amend the law due to updated deadlines in the future [*see 9.4-*
- 82 *6(d)(4) and 9.4-6(d)(4)(B) and 9.4-6(d)(4)(C) and 9.4-6(d)(5) and 9.4-6(d)(6)(A) and 9.4-*
- 83 *6(d)(6)(B) and 9.4-6(e)(1) and 9.4-6(e)(2) and 9.4-6(e)(3)(A) and 9.4-6(e)(3)(B) of*
- 84 *current law*].
- 85 ○ **Impact.** No legislative impact or conflict.
- 86 ■ **Distinction of Majority Age and Minor Beneficiaries.** Two terms have been added to
- 87 create clarity in the law: majority age beneficiaries and minor beneficiaries.
- 88 ○ **Proposed Amendments to the Law.** The proposed amendments to the law
- 89 define the new terms as follows:
- 90 ■ Majority age beneficiaries: a Tribal member who has reached eighteen
- 91 (18) years of age by September 1 and is eligible to claim a trust account
- 92 for the first time in the distribution year [*see 9.3-1(l)*].
- 93 ■ Minor beneficiaries are defined as Tribal members who are less than
- 94 eighteen (18) years of age [*see 9.3-1(k)*].
- 95 ○ **Per Capita Trust Agreement.** The Per Capita Trust Agreement refers only to
- 96 “beneficiaries” defined as:
- 97 ■ The beneficiaries of the trust shall be all duly enrolled members of the
- 98 Oneida Tribe of Indians of Wisconsin who are eligible to receive a per
- 99 capita distribution in any year in which any such distribution is made, and
- 100 who have not yet attained the age of eighteen years by September 1st of the
- 101 year in which such distribution is made [*see Article I. Beneficiaries of the*

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Per Capita Trust Agreement].

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- 103 ○ **Impact.** No legislative impact or conflict.
- 104 ▪ **Oneida Entity Debt Attachment.** Oneida entities are not required to receive an
- 105 attachment order from the Judiciary prior to initiating a per capita payment attachment
- 106 unless an attachment hearing is requested [*see 9.4-9(d)*]. The entity owed the debt must
- 107 provide two written notices via first class mail to the debtor’s last known address prior to
- 108 issuing final notice of indebtedness with intent to attach. The notice to attach must also
- 109 appear in the Nation’s newspaper. Once this has been satisfied, the Trust Enrollment
- 110 Department will calculate the attachment amount. The Trust Enrollment Department
- 111 may attach per capita payments of Tribal members who do not return a notarized
- 112 membership payment form or who refuse a distribution [*see 9.4-9(f)*]. Any remaining
- 113 amount after all attachments have been satisfied will be distributed to the Tribal member
- 114 if current direct deposit is on file with the Trust Enrollment Department or deposited into
- 115 the unclaimed per capita account if no direct deposit is on file or if refused [*see 9.4-9(f)*].
- 116 ▪ **Administrative Hearings.** The role of the Trust Enrollment Committee to hold
- 117 administrative hearings regarding challenges to payment or non-payment of per capita
- 118 payments has been removed from this law [*see 9.4-4(c) of current law*]. Disputes are
- 119 settled by the Judiciary in the proposed amendments.
- 120 ○ **Proposed Amendments to the Law.** The proposed amendments to the law state,
- 121 “Any Tribal member or guardian of a Tribal member can appeal a decision
- 122 regarding a per capita payment and/or distribution to the Judiciary” [*see 9.8*].
- 123 ○ **Per Capita Trust Agreement.** The Per Capita Trust Agreement states, “If any
- 124 dispute arises out of the distribution of a beneficiary’s interest under the trust, all
- 125 such matters shall be resolved according to the procedures set forth in the Oneida
- 126 Administrative Procedures Act, except as otherwise provided in the Oneida Tribe
- 127 of Indians of Wisconsin Revenue Allocation Plan [*see Article XV of the Per*
- 128 *Capita Trust Agreement*].
- 129 ○ **Impact.** Article XV of the Per Capita Trust Agreement would need to be updated
- 130 to refer disputes to the Judiciary.
- 131 ▪ **Membership Distribution Forms.** The current law requires each adult Tribal member
- 132 to return a notarized membership payment form by the close of business on September 1st
- 133 in order to be eligible for the per capita payment [*see 9.5-3(b) of current law*].
- 134 ○ **Proposed Amendments to the Law.** Tribal members who have submitted a
- 135 direct deposit form are no longer required to submit the notarized membership
- 136 payment form each year unless there is a change to the direct deposit information
- 137 [*see 9.5-2(b)(1)(A)*]. The direct deposit information can be updated until the
- 138 deadline of September 1 to apply to the per capita payment that year [*see 9.5-*
- 139 *2(b)(1)(A)(i)*].
- 140 ○ **Impact.** No legislative impact or conflict.
- 141 ▪ **Bank Fees.** The current law is silent with respect to bank fees.
- 142 ○ **Proposed Amendments to the Law.** All fees associated with reissuing a
- 143 distribution (due to stop payment or incorrect direct deposit information) must be

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applied to the distribution [see 9.5-2(d)(1)] unless it is an error on the Nation's behalf [see 9.5-2(d)(2)].

- o **Impact.** No legislative impact or conflict.
- **Elders Payments.** The separate process for elder's distributions was removed from this law. Elder's distributions now follow the same process and adhere to the same deadlines as the adult distributions [see 9.5], except for those elders who reach the age category established by the GTC resolution between October 1 and December 31 of the distribution year, who will receive their elders' payments early on September 30 (implied intent). This change conflicts with BC Resolution 11-06-02-A which sets the distribution timeline for elders reaching 62 and 65 by December 31st of the distribution year.
 - o **Impact.** BC Resolution 11-06-02-A is repealed in this law as noted in the analysis of the resolution above.
- **Appeal Process.** A process to appeal to the Judiciary was added to this law [See 9.8].
 - o **Impact.** The appeal process would need to be updated in the Per Capita Trust Agreement as it currently refers to the Administrative Procedures Act and the Revenue Allocation Plan to settle disputes [See Article XV of the Per Capita Trust Agreement].
- **Appeal of Oneida Entity Debt and Federal Tax Levy Attachments**
 - o Tribal members subject to attachment to collect a debt owed to the Judiciary who wish to appeal the attachment may file a request for a show cause hearing with the Judiciary. The Judiciary shall honor all requests for show cause hearings received within ten (10) business days from the date of the one-time notice of attachment [see 9.4-9(d)(1)(A)].
 - **Impact.** Provides an opportunity for Tribal members to appeal an attachment to collect debt issued by the Judiciary.

Miscellaneous

A public meeting has not yet been held. Oneida Tribe of Indians of Wisconsin has been changed to Oneida Nation to reflect approved constitutional amendments. Minor language changes have been made to improve the clarity without affecting the content of the law. Revisions have been made to comply with drafting styles. Please refer to the fiscal impact statement for any financial impacts.

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

9.5. Distributions
9.6. Minor Beneficiaries and Legally Incompetent Adults
9.7. Appeals

1
2 **9.1. Purpose and Policy**

3 9.1-1. *Purpose.* The purpose of this law is:

4 (a) To specify the procedure to be followed in the event that per capita payments are
5 distributed by the Nation; and

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

8 9.1-2. *Policy.* It is the policy of the Nation to have a consistent methodology for distribution of
9 per capita payments, including payments derived from gaming revenues and regulated by IGRA.

10
11 **9.2. Adoption, Amendment, Repeal**

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

15 9.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the
16 procedures set out in the Legislative Procedures Act.

17 9.2-3. Should a provision of this law or the application thereof to any person or circumstances
18 be held as invalid, such invalidity shall not affect other provisions of this law which are
19 considered to have legal force without the invalid portions.

20 9.2-4. In the event of a conflict between a provision of this law and a provision of another law,
21 the provisions of this law shall control. Provided that this law repeals Oneida Business
22 Committee resolution 11-06-02-A.

23 9.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

24
25 **9.3. Definitions**

26 9.3-1. This section shall govern the definitions of words and phrases as used herein. All words
27 not defined herein shall be used in their ordinary and everyday sense.

28 (a) "Adult" means a Tribal member who is at least eighteen (18) years of age on or
29 before September 1st of a given year.

30 (b) "Arrears" means the amount of money a Tribal member has not paid pursuant to the
31 most recent child support court order against him or her.

32 (c) "Court of competent jurisdiction" means the Judiciary, a state or federal court or
33 another court recognized by the Judiciary as having the jurisdiction to hear and determine
34 a particular legal proceeding.

35 (d) "Day" means calendar days, unless otherwise specifically stated.

36 (e) "Debtor" means a Tribal member owing a debt to an Oneida entity.

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

73 **9.4. General**

74 9.4-1. This section sets forth the responsibilities delegated under this law.

75 9.4-2. *Supersedes.* This law supersedes any contradictory language contained in any other per
76 capita payment plan.

77 9.4-3. *Budgetary Limitations.* This law may not be construed as mandating a per capita
78 payment; per capita payments may only be issued at the direction of the General Tribal Council
79 through adoption of a resolution.

- 80 9.4-4. *Oneida Business Committee.* The Oneida Business Committee shall:
81 (a) Identify and allocate funds available for per capita payments;
82 (b) Forward approved revenue allocation plans to the Bureau of Indian Affairs;
83 (c) Transfer funds to the appropriate Oneida entity(ies) pursuant to the Nation's laws
84 within a reasonable time frame;
85 (d) Be responsible for any activities not specifically identified but reasonably related to
86 the responsibilities in this in this sub-section; and
87 (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the
88 Trust Enrollment Committee.
- 89 9.4-5. *Trust Enrollment Committee.* The Trust Enrollment Committee shall:
90 (a) Manage trust accounts related to per capita payments with fiduciary responsibility;
91 (b) Maintain the Nation's membership rolls so that the Trust Enrollment Department can
92 accurately identify which Tribal members are eligible for distribution;
93 (c) Provide input to the Finance Department regarding per capita matters included in the
94 Nation's revenue allocation plan;
95 (d) Be responsible for any activities not specifically identified but reasonably related to
96 the responsibilities in this sub-section; and
97 (e) Enter into a Per Capita Trust Agreement and Memorandum of Agreement with the
98 Oneida Business Committee.
- 99 9.4-6. *Trust Enrollment Department.* When a per capita payment is approved, the Trust
100 Enrollment Department shall:
101 (a) Develop and finalize a list of the eligible distribution recipients broken down into the
102 following categories: minor beneficiaries, majority age beneficiaries, legally incompetent
103 adults, adults and elders. For the purposes of this section, elder means a Tribal member
104 who meets the age requirements as of December 31st of a given year to be eligible for an
105 elder distribution as determined by the effective General Tribal Council Resolution.
106 (b) Provide the finalized list of Tribal members eligible to receive the distribution to the
107 Oneida Accounting Division and trust fund accountant.
108 (c) Send membership distribution and trust account forms and receipts related to the
109 same.
110 (d) Manage and maintain the Enrollment Database including, but not limited to,
111 membership and distribution information.
112 (e) Process the distribution data and forward the data to the Oneida Accounting Division
113 and trust fund accountant.
114 (f) Ensure the availability and liquidity of funds for transfer of the trust funds under the
115 authorization of the Trust Enrollment Committee.
116 (g) Provide fund transfer instructions to the relevant initiating institution: the custodial
117 bank or the Oneida Accounting Division.
118 (h) Work with the Trust Enrollment Committee to establish any necessary trust accounts.
119 (i) Monitor all trust accounts for the purposes of necessary reporting, claims and
120 distribution verification.
121 (j) Record issued, voided, redeemed, and outstanding check trust account distributions in
122 the Enrollment Database.

- 123 (k) Complete trust account reconciliations.
124 (l) Calculate attachment amounts for collection of Oneida entity debts and implement
125 Oneida entity attachments.
- 126 9.4-7. *Oneida Accounting Division.* When a per capita payment is approved, the Oneida
127 Accounting Division shall:
- 128 (a) Initiate and complete the funds transfer upon receipt of funds transfer instructions
129 from the authorizing Oneida entity and shall ensure that the physical movement of funds
130 happens no later than one (1) business day prior to the distribution date.
131 (b) Record issued, voided and outstanding check distributions on the general ledger.
132 (c) Complete bank account reconciliations.
- 133 9.4-8. *Tribal Treasurer.* The office of the Oneida Treasurer shall identify funds and shall
134 timely transfer the necessary amount of relevant funds to the Trust Enrollment Committee, the
135 trust fund accountant and the Oneida Accounting Division.
- 136 9.4-9. *Attachments.* Per capita payments are benefits offered by the Nation to Tribal members.
137 All per capita payments, except distributions to or from a trust account for a beneficiary, may be
138 subject to attachment prior to distribution in accordance with this section. Entities seeking to
139 attach a per capita payment shall follow the timelines identified in this law.
- 140 (a) Per capita payments may only be attached for the following purposes, and in the
141 following order:
- 142 (1) Child support arrears ordered by a court of competent jurisdiction. After child
143 support arrears are fully satisfied, the Trust Enrollment Department shall apply
144 any remaining per capita payments for the payment of debt owed to an Oneida
145 entity.
- 146 (A) If a Tribal member owes arrears in more than one (1) child support
147 order, the Oneida Nation Child Support Agency shall equally divide the
148 per capita payment based on the number of court orders under which
149 arrears are owed.
- 150 (2) Debt owed to an Oneida entity that is past due. After child support arrears and
151 debt owed to an Oneida entity have been fully satisfied, the Trust Enrollment
152 Department shall apply any remaining per capita payment for the payment of a
153 federal tax levy.
- 154 (A) “Debt owed to an Oneida entity” includes any money owed to an
155 Oneida entity and any fines that have been issued by an Oneida entity.
- 156 (B) If a Tribal member owes debt to more than one (1) Oneida entity, the
157 Trust Enrollment Department shall equally divide the per capita payment
158 based on the number of Oneida entities that are owed debt.
- 159 (3) A federal tax levy.
- 160 (b) If the amount of the per capita payment exceeds the amount of the attachment, the
161 Trust Enrollment Department shall distribute the remaining balance to the Tribal
162 member, provided the Tribal member has met the distribution requirements contained in
163 this law. If there is a remaining unclaimed balance, the Tribal member may request it to
164 be distributed as provided in 9.5-2(e). The Trust Enrollment Department shall deposit
165 any remaining refused balance in accordance with 9.5-5.

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

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

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

175 (3) The Trust Enrollment Department may not attach a Tribal member's per
176 capita payment to collect child support arrears without first having received an
177 order of determination issued by the Judiciary.

178 (4) After the child support arrears have been satisfied, if an attachment request is
179 submitted for the same Tribal member's per capita payment based on new child
180 support arrears, the Oneida Nation Child Support Agency shall issue another one-
181 time notice and federal income tax withholding form in accordance with 9.4-
182 9(c)(1).

183 (d) *Oneida Entity Debt Attachments.* Oneida entities are not required to receive an
184 attachment order from the Judiciary prior to initiating a per capita payment attachment
185 unless an attachment hearing is requested under section 9.4-9(d)(5).

186 (1) *Notice of Indebtedness.* Prior to initiating an attachment, the Oneida entity
187 owed the debt shall provide written notice of indebtedness to the debtor by first
188 (1st) class mail at the debtor's last known address.

189 (A) *Frequency of Notice.* Oneida entities shall send debtors notice of
190 indebtedness for each month a debt is owed with each notice being sent a
191 minimum of thirty (30) calendar days apart. Oneida entities shall send
192 two (2) consecutive monthly notices prior to the debt becoming eligible
193 for attachment.

194 (B) *Notice Content.* Oneida entities shall include the following in their
195 notices of indebtedness:

196 (i) How many notices of indebtedness have been provided prior to
197 the subject notice and the dates of all prior notices;

198 (ii) The amount of the debtor's indebtedness;

199 (iii) Information for making payment on the debt; and

200 (iv) An explanation that if the debt is not paid in full within thirty
201 (30) calendar days from the date of the second consecutive
202 monthly notice, the entity may initiate an automatic attachment of
203 the Tribal member's per capita payment.

204 (2) *Initiating an Attachment.* After thirty (30) calendar days have lapsed since the
205 Oneida entity sent the second consecutive monthly notice of indebtedness, the
206 Oneida entity may initiate an attachment by providing the debtor with a final
207 notice of indebtedness with intent to attach. The Oneida entity shall send the final
208 notice to the debtor by certified mail. Additionally, the Oneida entity shall post

209 notice of intent to attach in the Nation's newspaper, where such notice includes
210 only the debtor's name, the Oneida entity owed a debt and the Oneida entity's
211 contact information for payment. The Oneida entity shall submit its request to
212 post to the newspaper at the same time as the final notice with intent to attach is
213 mailed in order to ensure that notice is posted in the newspaper a minimum of ten
214 (10) business days before the close of the debtor's thirty (30) calendar day time
215 period to resolve the debt or request an attachment hearing.

216 (A) The Oneida entity shall include the following in the final notice of
217 indebtedness with intent to attach:

218 (i) The dates of all prior notices of indebtedness provided to the
219 debtor;

220 (ii) The amount of the debtor's indebtedness;

221 (iii) Information for making payment on the debt;

222 (iv) An explanation that this is the final notice and the Oneida
223 entity has by this final notice initiated an attachment against the
224 debtor;

225 (v) An explanation that if the debt is not paid in full within thirty
226 (30) calendar days from the date of the final notice of indebtedness
227 with intent to attach that the Trust Enrollment Department will
228 automatically attach the debtor's available per capita payment in
229 order to satisfy the debt;

230 (vi) An explanation that the debtor may request an attachment
231 hearing with the Judiciary to contest the validity of the debt by
232 submitting a petition to the Judiciary within thirty (30) calendar
233 days from the date of the of the final notice of indebtedness with
234 intent to attach and that the debtor is responsible for any filing fees
235 required by the Judiciary; and

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

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

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

250 (ii) Receive, review and respond to the withholding report, in
251 accordance with the deadline provided by the Trust Enrollment

252 Department.
253 (3) *Calculating the Attachment Amount.* The Trust Enrollment Department shall
254 determine the amount of per capita payment attachment based on the order
255 provided in section 9.4-9(a).
256 (4) *Payment of Debt Prior to Attachment.* A debtor may make payments towards
257 a debt subject to attachment at any time.
258 (A) Oneida entities shall keep record of all debtors payments and shall
259 only include unpaid debts in their final accounting submitted to the Trust
260 Enrollment Department.
261 (A) Once the Oneida entity has submitted the final accounting to the Trust
262 Enrollment Department, the attachment amount may not be modified. If a
263 debtor makes a payment towards a debt subject to attachment after the
264 final accounting has been submitted to the Trust Enrollment Department,
265 the Oneida entity shall reimburse the debtor for payments received in
266 excess of the amount of the debt noticed to the debtor within thirty (30)
267 calendar days from its receipt of the per capita payment attachment.
268 (5) *Requesting an Attachment Hearing.* A debtor may request an attachment
269 hearing with the Judiciary to contest the validity of the debt by submitting a
270 petition to the Judiciary within thirty (30) calendar days from the date of the final
271 notice of indebtedness with intent to attach, provided that the debtor shall include
272 a copy of the final notice of indebtedness with intent to attach with the petition.
273 (A) The debtor shall pay any filing fees required by the Judiciary before
274 the Judiciary may consider the petition complete.
275 (B) When a request for an attachment hearing is timely made, the Oneida
276 entity is still not required to obtain a judgment, but shall receive an
277 attachment order before the Trust Enrollment Department may attach a per
278 capita payment to collect debt owed to the Oneida entity.
279 (6) *Multiple Attachments.* If a single per capita payment is not sufficient to
280 satisfy the debt owed to an Oneida entity, the Oneida entity shall follow the
281 process contained in section 9.4-9(d)(1)-(5) for each per capita payment it seeks
282 to attach.
283 (e) *Federal Tax Levy Attachments.* Claimants or their designated representatives shall
284 submit all requests for attachments for a federal tax levy to the Judiciary. The Trust
285 Enrollment Department may not attach a Tribal member's per capita payment to collect a
286 federal tax levy without first having received an order of determination from the
287 Judiciary.
288 (f) The Judiciary may order and the Trust Enrollment Department may implement
289 attachments against per capita payments of Tribal members who do not return a notarized
290 membership payment form as required under 9.5-2(b)(1) or who refuse a payment under
291 9.5-2(f). If the amount of the per capita payment exceeds the amount of the attachment
292 resulting in a remaining unclaimed balance, the Tribal member may request it to be
293 distributed as provided in 9.5-2(e). The Trust Enrollment Department shall deposit any
294 remaining refused balance in accordance with 9.5-5.

295 9.4-10. *Federal Income Tax Withholding.*

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

298 (1) Tribal members whose per capita payment is not subject to attachment in
299 accordance with section 9.4-9 may voluntarily request to have federal income tax
300 withheld, provided that Tribal members shall make such requests in accordance
301 with the applicable distribution deadlines.

302 (2) If the Trust Enrollment Department receives a timely voluntary request to
303 have federal income tax withheld from a Tribal members whose per capita
304 payment is subject to attachment in accordance with section 9.4-9, the Trust
305 Enrollment Department shall apply the federal income tax withholding to the
306 applicable distribution before any attachments are applied.

307 (b) *Mandatory.* A Tribal member who meets all of the requirements of this law, but
308 refuses to provide the Trust Enrollment Department with his or her social security
309 number or individual tax identification number is subject to mandatory federal income
310 tax withholding from his or her per capita payment, as required by federal law.

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

313

314 **9.5. Distributions**

315 9.5-1. *General.* This section sets forth the required processes for distribution of per capita
316 payments.

317 9.5-2. *Deadlines.* The following deadlines apply in regards to the annual per capita payment.
318 Where the dates fall on a Saturday, Sunday, or holiday the deadline is construed to be the close
319 of business on the following business day. For any additional per capita payments, the Trust
320 Enrollment Committee may establish dates and deadlines associated with those payments, as
321 needed.

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

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

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

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

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

- 338 (b) *Distribution Documents.*
339 (1) *Adult Distribution Form and Instructions.*
340 (A) Prior to July 1st of the year the Trust Enrollment Department shall mail
341 membership distribution forms and instructions to those who do not have a
342 direct deposit record on file with the Trust Enrollment Department.
343 (i) Adults shall complete, notarize and return a notarized
344 membership distribution form to the Trust Enrollment Department
345 by close of business on or before September 1st in order to be
346 eligible for a per capita distribution.
347 (B) Prior to July 1st of the year the Trust Enrollment Department shall mail
348 receipts to those who have a direct deposit record on file with the Trust
349 Enrollment Department. Adults receiving the receipts are not required to
350 submit a membership distribution form unless an adult wishes to remove
351 his or her direct deposit record.
352 (i) An adult wishing to remove his or her direct deposit record
353 shall complete, notarize and return all applicable forms to the Trust
354 Enrollment Department by close of business on or before the
355 distribution form deadline.
356 (C) The Trust Enrollment Department shall make available late
357 membership distribution forms and shall accept such forms in compliance
358 with section 9.5-2(e).
359 (2) *Majority Age Beneficiary Distribution Form and Instructions.*
360 (A) Prior to April 1st of the year the Trust Enrollment Department shall
361 mail trust account forms and instructions to eligible majority age
362 beneficiaries for trust account distributions.
363 (B) The Trust Enrollment Department shall make available late trust
364 account forms and shall accept such forms in accordance with Article III
365 of the Per Capita Trust Agreement.
366 (c) *Annual Distribution Date.* The Trust Enrollment Department shall distribute all
367 annual per capita payments on or before September 30th, excluding those to beneficiary
368 trust accounts, which are governed by the Per Capita Trust Agreement.
369 (d) *Direct Deposit.* Adults and majority age beneficiaries may submit a direct deposit
370 form at any time, provided that in order for it to be applied to an upcoming distribution,
371 the Tribal member shall submit the direct deposit form by the applicable per capita or
372 trust account distribution form deadline.
373 (1) The Trust Enrollment Department shall deduct any fees associated with
374 reissuing a distribution from the reissued distribution. (Fees may include, but are
375 not limited to, stop payment and direct deposit bank rejection fees).
376 (2) The Nation shall waive fees if a check is reissued due to an error on its behalf.
377 A reissue made due to an error on the Nation's behalf may not count against the
378 Tribal member as identified in 9.5-2(e)(2)(A).
379 (e) *Request for a Prior Per Capita Payment.*
380 (1) *Unclaimed Payment.* Tribal members shall submit a request for a prior adult

381 per capita payment, for which the Tribal member was eligible, but was not
382 claimed or fully attached, by September 1st of the next year. For example, if a
383 payment's original distribution date is in 2000, then the deadline is September 1,
384 2001. If a request is not received by the deadline date, the payment expires and
385 the Trust Enrollment Department shall deposit such funds in a pooled account in
386 accordance with 9.5-5.

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

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

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

398 (A) An adult, beneficiary or majority age beneficiary's distribution may
399 only be reissued once. After the distribution/rejected direct deposit funds
400 are reissued, the Tribal member has ninety (90) days to redeem it or the
401 distribution will expire and may not be reissued. The Trust Enrollment
402 Department shall deposit expired funds in a pooled account in accordance
403 with 9.5-5.

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

408 (i) The Nation shall waive fees if a check is reissued due to an
409 error on its behalf. A reissue made due to an error on the Nation's
410 behalf may not count against the Tribal member as identified in
411 9.5-2(e)(2)(A).

412 (f) *Refusal of Distributions.* An adult or majority age beneficiary may refuse any
413 distribution due to him or her, including a trust account distribution, by completing a
414 refusal form available with the Trust Enrollment Department. However, if the Judiciary
415 has approved an attachment of an adult distribution, only the remaining portion of the
416 distribution, if any, may be refused. Majority age beneficiary and legally incompetent
417 adult distributions are not attachable.

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

421 (2) Tribal members seeking to refuse a distribution shall submit refusal forms in
422 accordance with the distribution deadline.

423 (3) The Trust Enrollment Department shall deposit refused distributions in a

424 pooled account in accordance with 9.5-5.

425 9.5-3. *Deceased Tribal Members.* Tribal members are ineligible to receive a distribution if his
426 or her date of death occurs on or before the distribution date. This includes distributions
427 identified to be deposited to a trust account.

428 (a) *Deceased Adult.* The estate of a deceased adult may not submit a membership
429 distribution form on behalf of the deceased to claim a distribution. The Trust Enrollment
430 Department shall deposit per capita payments reserved for deceased adults in a pooled
431 account in accordance with 9.5-5.

432 (b) *Deceased Minor/Majority Age Beneficiary.* The value of a minor/majority age
433 beneficiary's trust account is inheritable on the date of the minor/majority age
434 beneficiary's death. The Trust Enrollment Committee shall establish rules creating the
435 processes by which an application for distribution may be made. The distribution may be
436 issued either in the name of the deceased minor/majority age beneficiary or the estate of
437 the minor/majority age beneficiary.

438 (1) If the trust account funds for a deceased minor/majority beneficiary are not
439 claimed by the estate of the deceased within one (1) year after the date of the
440 minor/majority age beneficiary's death, the Trust Enrollment Department shall
441 liquidate and deposit the trust fund account in accordance with 9.5-5.

442 (c) *Deceased Legally Incompetent Adult.* The balance of a legally incompetent adult's
443 trust account is inheritable as of the date of his or her death. The Trust Enrollment
444 Committee shall establish rules creating the processes by which the deceased's estate
445 may apply for distribution of the trust account funds. The distribution may be issued
446 either in the name of the deceased legally incompetent adult or the estate of the deceased
447 legally incompetent adult.

448 (1) If the trust account funds for a deceased legally incompetent adult are not
449 claimed by the estate of the deceased within one (1) year after the date of the
450 legally incompetent adult's death, the Trust Enrollment Department shall liquidate
451 and deposit the trust fund account in accordance with 9.5-5.

452 9.5-4. *Relinquishment of Tribal Membership.* Tribal members are ineligible for any current,
453 future and/or prior per capita payment distributions as of the date his or her Tribal membership is
454 relinquished.

455 (a) *Relinquished Adult.* The Trust Enrollment Department shall deposit funds set aside
456 for a relinquished adult's distribution in a pooled account in accordance with 9.5-5.

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

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

462 (2) A relinquished majority age/minor beneficiary is eligible to claim the joint
463 savings account if he or she is eighteen (18) years of age by September 1st of the
464 distribution year and submits the majority age distribution form by July 1st of the
465 same year. In addition, a relinquished majority/minor age beneficiary shall claim
466 any remaining funds held in the joint savings account prior to the first distribution

467 following his or her twenty-first (21st) birthday.

468 (3) A relinquished majority age/minor beneficiary may refuse his or her joint
469 savings account funds at the age of eighteen (18). The proof of education
470 requirement is not required to refuse joint savings account funds, however the
471 relinquished majority age/minor beneficiary shall satisfy the requirements of
472 section 9.5-2(f).

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

477 (5) The Trust Enrollment Department shall deposit any unclaimed joint savings
478 account funds in a Pooled Account in accordance with section 9.5-5.

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

482 (1) If the trust account funds for a legally incompetent adult are not claimed
483 within one (1) year after the date of relinquishment, the Trust Enrollment
484 Department shall liquidate and deposit the trust fund account in accordance with
485 9.5-5.

486 9.5-5. *Pooled Account.* Pooled account funds are managed by the Trust Enrollment Committee,
487 to be used for a purpose designated by General Tribal Council. Pooled account funds result from
488 the following.

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

491 (1) A Tribal member submits a refusal form under 9.5-2(f);

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

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

495 (4) The estate of a deceased majority age/minor beneficiary fails to request
496 distribution of the trust account within the time provided under 9.5-3(b).

497 (5) The guardian of a deceased legally incompetent adult fails to request
498 distribution of the trust account within the time provided under 9.5-3(c).

499

500 **9.6. Minor Beneficiaries and Legally Incompetent Adults**

501 9.6-1. *Minor Beneficiaries.* This section sets forth a consistent method to protect and preserve
502 the interests of minor beneficiaries in any distribution to which a minor beneficiary may be
503 eligible. All distributions to minor beneficiaries are governed by this law, IGRA and the Per
504 Capita Trust Agreement.

505 (a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish
506 standard operating procedures for setting up, monitoring and distributing the trust
507 accounts. The Trust Enrollment Committee may choose to maintain pooled or individual
508 accounts, separate accounts for each distribution or series of distributions, or any other
509 combination which is in the best interests of the beneficiaries and which is consistent

510 with the terms of the Per Capita Trust Agreement and the Trust Enrollment Committee's
511 investment policy.

512 (1) The Trust Enrollment Committee is responsible for the protection and
513 preservation of per capita payment funds for beneficiaries. As part of that
514 responsibility, the Trust Enrollment Committee shall complete and issue any
515 necessary reports to the beneficiaries. The Trust Enrollment Committee shall
516 develop rules, which establish valuation dates and frequency of reports and
517 identify data critical to the completion of the reports. The Trust Enrollment
518 Committee may delegate such reporting responsibilities to duly selected vendors.

519 (b) *Costs of Account.* The Trust Enrollment Department shall apply administrative costs
520 related to a trust account to the said account. Administrative costs are those costs related
521 to third party fees and expenses resulting from managing the accounts. Administrative
522 costs do not include any costs related to the expenses of the Trust Enrollment Committee
523 or Trust Enrollment Department.

524 (c) *No Guarantee.* It is the Trust Enrollment Committee's responsibility to invest
525 beneficiaries' distributions in accordance with the Per Capita Trust Agreement. Because
526 the market affects the value of trust accounts, beneficiaries are not guaranteed any
527 specific amount of distribution made prior to becoming a majority age beneficiary.

528 (d) *Disbursement to Majority Age Beneficiaries.* Disbursement of trust account funds to
529 majority age beneficiaries is governed by the Per Capita Trust Agreement, provided that
530 to be eligible for a distribution, the majority age beneficiary is required to:

531 (1) Meet the age and education requirements where:

532 (A) If the majority age beneficiary has proof of education by September 1st
533 of the distribution year as required by the Per Capita Trust Agreement, he
534 or she is eligible for distribution at eighteen (18) years of age.

535 (B) If the majority age beneficiary does not have proof of education by
536 September 1st of the Distribution year as required by the Per Capita Trust
537 Agreement, he or she remains eligible to claim their trust account funds
538 upon reaching twenty-one (21) years of age.

539 (C) *Exceptions.* The following Tribal members are exempt from the
540 requirement to provide proof of education in order to be eligible for a
541 minor trust account distribution prior to reaching twenty-one (21) years of
542 age:

543 (i) Majority age beneficiaries declared to be a legally incompetent
544 adult under 9.6-2. In such circumstances, the Trust Enrollment
545 Department shall automatically liquidate and deposit any funds
546 from the minor's trust account into a legally incompetent adult
547 trust account.

548 (ii) Majority age beneficiaries who have a learning or other
549 disability that has been medically diagnosed and are able to present
550 a certificate of attendance showing he or she has attended twelve
551 (12) years of school. In such circumstances, that certificate of
552 attendance is deemed the equivalent to proof of education.

553 (D) *Fraudulent Proof of a Diploma.* In the event the Trust Enrollment
554 Department deems that a majority age beneficiary has submitted
555 fraudulent proof of education, the Trust Enrollment Department shall:

556 (i) If distribution has not been made to the Tribal member,
557 withhold distribution of the trust account funds until the
558 requirements of this law have been met;

559 (ii) Impose a fine against the Tribal member of one-third (1/3) of
560 the Tribal member's entire trust account funds;

561 (iii) Notify the Tribal member of the following:

562 (a) His or her proof of education has been deemed
563 fraudulent;

564 (b) If not already distributed to the Tribal member, the trust
565 account funds may not be distributed until he or she
566 submits valid proof of education or reaches twenty-one (21)
567 years of age;

568 (c) A fine of one-third (1/3) of the Tribal member's entire
569 trust account funds has been imposed; and

570 (d) How to appeal the Trust Enrollment Department's
571 determination of the fraudulent proof of education,
572 including any applicable time limits.

573 (iv) If necessary to satisfy the fine, take action to have the Tribal
574 member's future per capita payments attached in accordance with
575 this law.

576 (v) Deposit any funds collected to pay a fine imposed pursuant to
577 this section in a pooled account in accordance with 9.5-5.

578 (2) Complete and submit a majority age beneficiary distribution form and/or
579 deferral payment agreement by July 1st of the distribution year. A majority age
580 beneficiary may postpone distribution of all or some of his or her trust account
581 funds by entering into a deferral payment agreement pursuant to the Per Capita
582 Trust Agreement.

583 9.6-2. *Legally Incompetent Adults.* This section sets forth a consistent method to protect and
584 preserve the interests of legally incompetent adults in any distribution for which they may be
585 eligible. If a distribution includes legally incompetent adults as eligible recipients, the Trust
586 Enrollment Department shall deposit such distributions into a trust account in accordance with
587 IGRA.

588 (a) *The Trust Enrollment Committee.* The Trust Enrollment Committee shall establish
589 standard operating procedures for setting up, monitoring, and distributing trust accounts.
590 When an adult is declared legally incompetent, the Trust Enrollment Department shall
591 place any distribution that is claimed on his or her behalf in a trust account for health,
592 welfare and/or education expenses. The Trust Enrollment Committee shall develop rules
593 for determining when a guardian qualifies for distribution from an established trust
594 account.

595 (b) *Reversal of Incompetency.* If a court of competent jurisdiction determines that an

596 adult is no longer legally incompetent, the adult shall provide the Trust Enrollment
597 Department with a certified copy of the order. Provided that the adult is eligible for the
598 distribution and has followed the processes required under this law, upon receipt of an
599 order reversing incompetency, the Trust Enrollment Department shall distribute any
600 funds held in the trust account for the legally incompetent adult to the adult now deemed
601 competent.

602
603 **9.7. Appeals**

604 9.7-1. Any Tribal member or guardian of a Tribal member may appeal a decision regarding a
605 per capita payment and/or distribution to the Judiciary.

606
607 *End.*

608
609

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