

## **Title 8. Judiciary – Chapter 811 LEGAL RESOURCE CENTER**

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### **811.1. Purpose and Policy**

811.1-1. *Purpose.* The purpose of this law is to establish a Legal Resource Center to provide legal advice and representation to both Tribal members and employees in cases before the Judiciary and to represent the Oneida General Tribal Council at General Tribal Council meetings.

811.1-2. *Policy.* It is the policy of the Nation to provide legal assistance to its members and employees in an effort to protect individual rights.

### **811.2. Adoption, Amendment, Repeal**

811.2-1. This law was adopted by the Oneida Business Committee by resolution BC-09-13-17-L.

811.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

811.2-3. 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.

811.2-4. 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.

811.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### **811.3. Definitions**

811.3-1. 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) “Advocate” means a person elected by the membership who is a non-attorney admitted to practice law before the Judiciary and presented to the Court as the representative or advisor to a party.
- (b) “Attorney” means a person elected by the membership who is trained and licensed to represent another person in Court, to prepare documents, and to give advice or counsel on matters of law.
- (c) “Employee” means any individual hired by the Nation and on the Nation’s payroll and encompasses all forms of employment, including but not limited to: full-time, part-time, at-will, elected/appointed officials, political appointees, and contracted persons.
- (d) “Judiciary” means the judicial system responsible for applying the laws of the Oneida Nation. The three branches, as identified in resolutions BC-05-08-13-A and GTC 01-07-13-B are the Family Court, Trial Court, and Appellate Court.
- (e) “Nation” means the Oneida Nation.

- (f) “Rule” means a set of requirements enacted by an authorized agency in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret, and/or enforce this law.
- (g) “Tribal member” means an individual who is an enrolled member of the Nation.

#### **811.4. General Provisions**

811.4-1. *Establishment.* There is hereby established a Legal Resource Center, which shall provide legal advice and representation to Tribal members and employees in cases brought forth in the Judiciary and to represent the Oneida General Tribal Council at General Tribal Council meetings.

811.4-2. *Restrictions.* The Legal Resource Center shall not:

- (a) Accept a case that is determined to be frivolous or without legal merit. Whenever the Attorney or Advocate makes such a determination in a case where a notice of representation has been filed or an appearance has been made, he or she shall motion the court for withdrawal;
- (b) Accept a case when there is a conflict of interest pursuant to the Professional Conduct for Attorneys and Advocates law;
- (c) Appear in any case before the Judiciary prior to the client applying for the services of the Legal Resource Center;
- (d) Charge a client a fee for representation; however, the client shall be responsible for all filing fees and other costs associated with the case including but not limited to: service of process fees, guardian ad litem fees, physical and mental examinations, expert witness fees, substance abuse assessments, and court costs; or
- (e) Appear in any case before the Judiciary where the Attorney or Advocate does not meet the qualifications established by law.

811.4-3. *Prohibitions.* While serving a term of office, no Attorney or Advocate may:

- (a) Be elected or appointed to serve on any of the Nation’s boards, committees or commissions; or
- (b) Be otherwise employed, elected, or appointed by the Nation.

811.4-4. *Vacancies.* If an Attorney or Advocate dies, resigns, is removed from office, becomes incapacitated for a period in excess of one hundred eighty (180) consecutive days, or is declared incompetent by a court of competent jurisdiction, the position shall be declared vacant by the Oneida Business Committee and the Oneida Business Committee may either appoint a successor to fill the position until the next general election at which time a successor will be elected to a four (4) year term or fill the position through a special election.

811.4-5. *Assumption of Duties.* If there is no Attorney in office, then the Advocates shall share the duties promulgated by sections 811.5-3(b), (c), (d), (e), (f), (g), (k), (l), and (n).

#### **811.5. Attorney**

811.5-1. *Qualifications.* There shall be at least one (1) full-time Attorney of the Legal Resource Center. This position shall be an elected position and shall have the following qualifications:

- (a) is an enrolled Tribal member and is at least twenty-one (21) years of age on the date of the election;
- (b) have a juris doctor (J.D.) degree from an accredited law school;
- (c) have at least two (2) years of previous experience practicing law and/or equivalent combination of education and experience;
- (d) be licensed to practice law in the State of Wisconsin and in good standing; and

(e) be admitted to practice before the Judiciary.

811.5-2. *Election.* The Attorney shall be elected by the Nation's membership to a term of four (4) years.

811.5-3. *Duties.* The Attorney shall have the duty of administering the Legal Resource Center, which shall include the following:

- (a) provide legal services;
- (b) oversee the assignment of cases to the Advocates;
- (c) supervise any administrative personnel;
- (d) establish standards concerning the training and continued education for the Advocates;
- (e) manage the operation, activities, policies, and procedures of the Legal Resource Center;
- (f) submit an annual budget for consideration by the Oneida General Tribal Council;
- (g) provide annual and semi-annual reports to the Oneida General Tribal Council;
- (h) represent the Legal Resource Center at functions and meetings where appropriate;
- (i) maintain the integrity of the legal process by acting ethically and honestly both in private and in public and maintaining the strictest of confidentiality;
- (j) remain informed about changes to Tribal, state and federal laws, and state and federal court and administrative hearing body decisions that may impact Indian country;
- (k) develop standard operating procedures to ensure confidentiality and accommodate the handling of potential conflicts of interest by the Legal Resource Center (e.g. should the Legal Resource Center represent both parties to an action, written informed consent shall be obtained by both parties prior to the commencement of representation). The procedures shall not conflict with existing law, including the Professional Conduct for Attorneys and Advocates law;
- (l) promulgate rules establishing how clients apply for the Legal Resource Center's services;
- (m) advise the Oneida General Tribal Council during General Tribal Council meetings;
- (n) provide bi-annual training starting in FY 2018 that is open to all Tribal members and includes, but is not limited to, training on the Oneida Code of Laws and the Judiciary's processes and procedures; and
- (o) other duties as prescribed by the Nation's laws and the Legal Resource Center's standard operating procedures.

### **811.6. Advocates**

811.6-1. *Qualifications.* There shall be at least two (2) full-time Advocates in the Legal Resource Center. The Advocates shall be elected by the Nation's membership and have the following qualifications:

- (a) is an enrolled Tribal member and is at least twenty-one (21) years of age on the date of the election;
- (b) have one (1) of the following from an accredited institution:
  - (1) a juris doctor degree;
  - (2) a doctor of philosophy degree;
  - (3) a master's degree; or
  - (4) a bachelor's degree or associate's degree in one of the following fields of study, provided that a degree in a similar field of study shall also apply:
    - (A) Criminal Justice

- (B) Education
- (C) Political Science (including Government, Politics or Public Policy)
- (D) Human Rights
- (E) Journalism
- (F) Legal Studies
- (G) Native American Studies
- (H) Psychology
- (I) Sociology
- (J) Public Administration
- (K) History
- (L) Business Administration
- (M) Economics or Finance
- (N) Philosophy
- (O) Judicial Studies
- (P) Paralegal Studies
- (Q) Family Law

(c) have at least two (2) years of experience in litigation, negotiation, or advocacy and/or equivalent combination of education and experience; and

(d) be admitted to practice before the Judiciary.

811.6-2. *Election.* Advocates shall be elected by the Nation's membership to a term of four (4) years.

811.6-3. *Duties.* Advocates shall represent clients in accordance with the Professional Conduct for Attorneys and Advocates law. In addition to all other duties imposed by this law and other laws or rules of the Nation, advocates shall:

- (a) provide legal services;
- (b) complete assignments given by the Attorney or pursuant to section 811.4-5;
- (c) represent the Legal Resource Center at functions and meetings where appropriate;
- (d) maintain the integrity of the legal process by acting ethically and honestly both in private and in public and maintaining the strictest of confidentiality;
- (e) attend training and continued education;
- (f) remain informed about changes to Tribal, state and federal laws, and state and federal court and administrative hearing body decisions that may impact Indian country; and
- (g) other duties as established by the Attorney or pursuant to section 811.4-5, the Nation's laws and rules, and the Legal Resource Center's standard operating procedures.

### **811.7. Discipline and Removal**

811.7-1. Attorneys and Advocates shall be subject to disciplinary actions pursuant to the Professional Conduct for Attorneys and Advocates law and any other laws that govern discipline and/or removal of elected positions.

811.7-2. Attorneys and Advocates shall at all times be subject to removal. When an Attorney or Advocate has their admission to practice before the Judiciary revoked or no longer qualifies to serve as an Attorney or Advocate, removal proceedings shall be commenced in accordance with the Removal Law.

*End.*

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Emergency Adoption – BC-05-24-17-A

Adopted – BC-09-13-17-L

# Oneida Nation

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Oneida, WI 54155

## **BC Resolution # 09-13-17-L Legal Resource Center**

**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,** on November 14, 2016, the Oneida General Tribal Council directed the Oneida Business Committee to establish a legal office consisting of advocates and an advising attorney to represent Tribal members and employees in any type of litigation at the Oneida Judiciary and to advise the Oneida General Tribal Council during duly called General Tribal Council meetings; and

**WHEREAS,** the Oneida General Tribal Council required the advising attorney and advocates be elected at the 2017 General Election; and

**WHEREAS,** the 2017 General Election was held on July 8, 2017; and

**WHEREAS,** on May 24, 2017, the Oneida Business Committee enacted emergency legislation pursuant to BC Resolution 05-24-17-A which established the Legal Resource Center; and

**WHEREAS,** the proposed law would permanently create the Legal Resource Center; and

**WHEREAS,** a public meeting was held on July 20, 2017, in accordance with the Legislative Procedures Act and no comments were received; and

**NOW THEREFORE BE IT RESOLVED,** that the Legal Resource Center law is hereby adopted.

**BE IT FURTHER RESOLVED,** that the Oneida Business Committee hereby implements the following Transition Plan:

- (1) *Elections.* The elections for the Legal Resource Center were held during the 2017 general election. The election process followed the Nation's Election law and during the first Legal Resource Center election, the Advocates' terms shall be as follows:
  - a. The candidate for Advocate with the highest number of votes shall be elected to a term of four (4) years.
  - b. The candidate for Advocate with the next highest number of votes shall be elected to a term of three (3) years.
  - c. In the event of any tie vote, the provisions of the Nation's Election law for resolving a tie vote shall determine the outcome.
- (2) *Legal Resource Center Opening.* The Legal Resource Center shall be open to Tribal members and employees beginning on February 1, 2018.

**BE IT FINALLY RESOLVED**, that the Oneida Business Committee is authorized to make such modifications and additions to the above Transition Plan as it deems necessary to implement the Legal Resource Center in accordance with the proposed timelines, and shall subsequently file a report at the annual or semi-annual meeting of the Oneida General Tribal Council that occurs after the modifications or additions are made.

#### **CERTIFICATION**

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 5 members were present at a meeting duly called, noticed and held on the 13<sup>th</sup> day of September, 2017; that the forgoing resolution was duly adopted at such meeting by a vote of 4 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

  
Lisa Summers, Tribal Secretary  
Oneida Business Committee

\*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."