

Chapter 4
REMOVAL LAW
Kwah Oná Aluwalihutákwás Kayanláhsla
Just when they will remove him our kind of laws

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Analysis by the Legislative Reference Office

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3 This amendment is being proposed in response to the Resolution GTC #11-15-08-D which
4 directed that a Removal Law amendment be presented to GTC “which identifies that an elected
5 official is subject to removal for failure to carry out a Oneida General Tribal Council directive...”

6 The amendment being proposed is based on language already contained in the GTC’s Ten
7 Day Notice Policy:

8 “Section VI.5.a. Resolutions that have been passed by GTC shall be implemented whole heartedly by the
9 Business Committee or as directed by the GTC.

- 10 1. Written progress reports shall be reported back to the GTC at next meeting.
11 2. Failure by the BC to properly implement, or demonstrate progress of GTC actions may be subject to
12 grounds of suspension and/or removal.

- 13 a. Refer to the Business Committee Removal Ordinance.”

14 If a Business Committee member were to therefore fail to properly implement a GTC resolution he
15 or she may be subject to 4.4-1(f) of the Removal Law which states that one of the grounds for
16 removal is “violating a Tribal law which specifies removal as a penalty.” However, there appears to
17 be no harm in reiterating GTC’s intent in both laws. The amendment proposes that in addition to
18 failing to carry out a GTC resolution directive that GTC motions are also included.

19 This law complies with the Format with Laws and a public hearing has not been held.
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Removal Law

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25 **4.1. Purpose and Policy**

26 4.1-1. The purpose of this law is to govern the removal of persons elected to serve on boards,
27 committees and commissions of the Oneida Tribe of Indians of Wisconsin.

28 4.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to provide an orderly and fair
29 process for the removal of persons elected to serve on boards, committees and commissions.
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31 **4.2. Adoption, Amendment, Repeal**

32 4.2-1. This law is adopted by the General Tribal Council by GTC Resolution #1-09-06-A.

33 4.2-2. This law may be amended by the General Tribal Council only.

34 4.2-3. Should a provision of this law or the application thereof to any person or circumstances be
35 held as invalid, such invalidity shall not affect other provisions of this law which are considered to
36 have legal force without the invalid portions.

37 4.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar
38 actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after
39 adoption of this law. Specifically, the following resolutions are repealed by this law:

- 40 (a) GTC-6-13-79 (Adoption of Ordinance for the Removal of Oneida Tribal Business
41 Committee Members)
42 (b) BC-3-8-85-A (Adoption of Legislatively Appointed Committee Removal Ordinance)
43 (c) BC-1-03-96-B (BC Adoption of Removal Law)
44 (d) GTC-1-17-98-A (GTC Adoption of Removal Law)
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46 **4.3. Definitions**

47 4.3-1. This section shall govern the definitions of words or phrases as used herein. All words not
48 defined herein shall be used in their ordinary and everyday sense.

- 49 (a) "Counsel" means an attorney or advocate.
50 (b) "Tribe" means the Oneida Tribe of Indians of Wisconsin.
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52 **4.4. Grounds for Removal**

53 4.4-1. An elected official may be removed from office for any of the following reasons:

- 54 (a) failure to attend four (4) regularly scheduled meetings without a written explanation,
55 (b) failure to attend fifty percent (50%) of an entity's regular scheduled meetings within a
56 twelve (12) month period for any reason provided that this subsection shall not apply to the
57 Oneida Business Committee,
58 (c) intentional mis-use of Tribal funds,
59 (d) alcohol use while performing official responsibilities or use of illegal drugs at any time,
60 (e) if he or she no longer meets the qualifications for office,
61 (f) violating a Tribal law which specifies removal as a penalty, ~~or~~
62 (g) felony conviction while in office, ~~or~~
63 (h) failure to implement, or demonstrate progress toward the implementation of a directive
64 of the General Tribal Council which was issued by passage of a motion or the adoption of a
65 resolution of the General Tribal Council.
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67 **4.5. Petition**

68 4.5-1. Any eligible voter may file a petition with the Tribal Secretary seeking the removal of an
69 elected official. No petition shall request the removal of more than one (1) elected official. The
70 petition shall state with particularity the facts upon which it is based and the specific grounds for
71 removal, in not more than two hundred (200) words, and must be signed by fifty (50) or more
72 eligible voters or a number equal to at least thirty (30) percent of the vote cast in the previous general
73 election, whichever is greater. A petition may not be amended after it is filed with the Tribal
74 Secretary.

75 4.5-2. The petition shall be filed within thirty (30) days after the date the first signature is obtained
76 on the petition.

77 4.5-3. The petition shall contain, in ink:

- 78 (a) The appropriate lines for the eligible voter's:
79 (1) Printed name

- 80 (2) Signature
81 (3) Street address
82 (4) Enrollment number
83 (b) An oath verifying the fact that:
84 (1) The circulator witnessed each person sign the petition,
85 (2) Each signature appearing thereon is the genuine signature of the person it
86 purports to be, and
87 (3) The petition was signed in the presence of the witness on the date indicated.

88 4.5-4. Upon receipt of a petition, the Tribal Secretary shall promptly:
89 (a) Submit such petition to the Oneida Tribal Enrollment Department which shall, within
90 five (5) business days, determine whether the petition contains the requisite number of
91 signatures of eligible voters; and

92 (b) Notify the elected official sought to be removed that a petition has been filed seeking his
93 or her removal by providing a copy of the uncertified petition.

94 4.5-5. If the Enrollment Department determines that the petition does not contain the requisite
95 number of signatures, the Tribal Secretary shall so certify to the Oneida Business Committee and file
96 the petition without taking further action, and the matter shall be at an end. No additional names
97 may be added to the petition, and the petition shall not be used in any other proceeding.

98 4.5-6. If the Enrollment Department determines that the petition contains the requisite number of
99 signatures, then the Tribal Secretary shall promptly cause a certified copy of the petition to be served
100 upon the elected official sought to be removed and forward a copy of the same to the Oneida Appeals
101 Commission.

102 4.5-7. In the event the removal of the Tribal Secretary is sought, the Tribal Vice Chairperson shall
103 perform the duties assigned to the Secretary under this law.

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105 **4.6. Preliminary Review**

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107 4.6-1. The Oneida Appeals Commission, upon receipt of the petition shall schedule a preliminary
108 review, to take place within twenty (20) calendar days, to determine whether the allegations set forth
109 in the petition would constitute sufficient grounds for removal. The Oneida Appeals Commission
110 may request that the parties submit arguments in writing, and the parties may be represented by
111 counsel.

112 4.6-2. If the Oneida Appeals Commission determines that a petition does not allege sufficient
113 grounds for removal, the petition shall be dismissed. If the Oneida Appeals Commission determines
114 that the petition alleges sufficient grounds for removal, the Oneida Appeals Commission shall
115 conduct a hearing under 4.7.

116 4.6-3. The Tribal Secretary's certification of the sufficiency of the number of signatures on the
117 petition may be reviewed by the Oneida Appeals Commission upon motion of the elected official
118 whose removal is sought. The motion shall be filed within twenty (20) calendar days of service of
119 the certified copy of the petition upon the elected official sought to be removed. The motion shall be
120 in writing and the grounds limited to:

- 121 (a) the authenticity of the signatures, and
122 (b) whether the signature is that of an eligible voter.

123 4.6-4. The Oneida Appeals Commission review shall be conducted in the presence of the parties,
124 who may be represented by counsel during the inspection. Opportunity to present evidence and
125 testimony shall be provided. If the Oneida Appeals Commission determines that a petition contains
126 less than the required number of valid signatures, the petition shall be dismissed.

127 4.6-5. In the event the removal of a member of the Oneida Appeals Commission is sought, the Clerk
128 of Courts shall convene a panel of three (3) judges who are members of the Wisconsin Tribal Judges
129 Association to carry out the Oneida Appeals Commission's responsibilities under this law.

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131 **4.7. Hearing**

132 4.7-1. *Rights of Elected Official at Hearing.* An elected official whose removal is sought shall have
133 the right to present witnesses on his or her behalf, to cross-examine adverse witnesses, to, at his or
134 her expense, be represented by counsel of his or her choice.

135 4.7-2. *Burden of Proof.* A person seeking the removal of an elected official shall have the burden of
136 proving by clear and convincing evidence that ground(s) for removal exist.

137 4.7-3. *Findings.* The Oneida Appeals Commission shall, within twenty (20) calendar days after the
138 preliminary review has been completed, determine whether each allegation of the petition has been
139 proven by clear and convincing evidence, and whether such allegations constitute sufficient grounds
140 for removal under 4.4-1. If the Oneida Appeals Commission determines that sufficient grounds have
141 not been proven the Oneida Appeals Commission shall dismiss the petition. If the Oneida Appeals
142 Commission determines that the sufficient grounds have been proven, the Oneida Appeals
143 Commission shall forward the written findings to the Tribal Chair.

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145 **4.8. General Tribal Council Meeting**

146 4.8-1. *Special Meeting.* Upon receipt of the findings from the Oneida Appeals Commission, the
147 Tribal Chair shall call a special General Tribal Council meeting to consider the findings to be held
148 within forty-five (45) calendar days after receipt of the Oneida Appeals Commission findings.

149 4.8-2. *Right to address the Council.* An elected official whose removal is sought shall have the right
150 to address the General Tribal Council personally.

151 4.8-3. *Determination.* An elected official may only be removed from office upon the affirmative
152 vote of a two-thirds (2/3) majority of the General Tribal Council at a meeting called for the purpose
153 of considering the removal.

154 4.8-4. *Quorum.* If the meeting of the General Tribal Council fails to obtain a quorum, the removal
155 petition shall be dismissed.

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157 *End.*

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Adopted GTC-01-09-06-A