

Chapter 14
SOVEREIGN IMMUNITY
Yukwatatwani·yó
we are free from foreign powers

14.1-1 Purpose
14.1-2 Policy
14.2-1 Adoption
14.3-1 Definitions

14.4-1 Sovereign Immunity of the Tribe
14.4-2 Sovereign Immunity of Tribal Entities
14.5-1 Waiver of Sovereign Immunity

14.1-1. Purpose. The purpose of this law is to protect and preserve the sovereign immunity of the Oneida Tribe of Indians of Wisconsin, to define the entities and individuals entitled to the protection of such immunity, and to specify the manner in which such immunity may be waived.

14.1-2. Policy. It is the policy of the Oneida Tribe of Indians of Wisconsin to exercise its sovereign immunity, and to grant limited waivers of such immunity, as dictated by the best interests of the Oneida Tribe of Indians of Wisconsin and its citizens. The Oneida Tribe of Indians of Wisconsin recognizes that tribal sovereign immunity, as defined in numerous federal court decisions, is an inherent and indispensable aspect of tribal sovereignty. The Oneida Tribe of Indians of Wisconsin also recognizes that tribal sovereign immunity affords necessary protection of tribal resources, and necessary protection for tribal officers, employees, and agents in both governmental and commercial settings.

14.2-1. Adoption. This law is adopted by the Oneida Business Committee by resolution # BC-10-20-04-C.

14.2-2. This Ordinance may be amended by the Oneida Business Committee in accordance with Tribal law.

14.2-3. 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.

14.3-1. Definitions. For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) "Agent" means a person who is authorized to act on behalf of the Oneida Tribe of Indians of Wisconsin with respect to a specific transaction or transactions.
- (b) "Employee" means a person who works for the Oneida Tribe of Indians of Wisconsin in any capacity and who is subject to the direction and control of the Oneida Tribe of Indians of Wisconsin with respect to the material details of the work performed.
- (c) "Officer" means a person elected or appointed to serve on a board, committee, or commission of the Oneida Tribe of Indians of Wisconsin.
- (d) "Tribal Entity" means a corporation or other organization which is wholly owned by the Oneida Tribe of Indians of Wisconsin, is operated for governmental or commercial purposes, and may through its charter or other document by which it is organized be delegated the authority to waive sovereign immunity.

- (e) "Tribe" means the Oneida Tribe of Indians of Wisconsin, and includes all departments, divisions, business units, and other subdivisions of the Tribe.

14.4-1. Sovereign Immunity of the Tribe. The sovereign immunity of the Tribe, including sovereign immunity from suit in any state, federal or tribal court, is hereby expressly reaffirmed. No suit or other proceeding, including any tribal proceeding, may be instituted or maintained against the Tribe unless the Tribe has specifically waived sovereign immunity for purposes of such suit or proceeding. No suit or other proceeding, including any tribal proceeding, may be instituted or maintained against officers, employees or agents of the Tribe for actions within the scope of their authority, unless the Tribe has specifically waived sovereign immunity for purposes of such suit or proceeding.

14.4-2. Sovereign Immunity of Tribal Entities. The sovereign immunity of Tribal Entities, including sovereign immunity from suit in any state, federal or tribal court, is hereby expressly reaffirmed. No suit or other proceeding, including any tribal proceeding, may be instituted or maintained against a Tribal Entity unless the Tribe or the Tribal Entity has specifically waived sovereign immunity for purposes of such suit or proceeding. No suit or other proceeding, including any tribal proceeding, may be instituted or maintained against officers, employees or agents of a Tribal Entity for actions within the scope of their authority, unless the Tribe or the Tribal Entity has specifically waived sovereign immunity for purposes of such suit or proceeding.

14.5-1. Waiver of Sovereign Immunity.

- (a) All waivers of sovereign immunity shall be made in accordance with this law.
- (b) The sovereign immunity of the Tribe or a Tribal Entity may be waived:
 - (1) by resolution of the General Tribal Council;
 - (2) by resolution or motion of the Oneida Business Committee; or
 - (3) by resolution of a Tribal Entity exercising authority expressly delegated to the Tribal Entity in its charter or by resolution of the General Tribal Council or the Oneida Business Committee, provided that such waiver shall be made in strict conformity with the provisions of the charter or the resolution governing the delegation, and shall be limited to the assets and property of the Tribal Entity.
- (c) Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds subject to the waiver, the court having jurisdiction and applicable law.
- (d) No waiver of sovereign immunity shall be deemed to be a consent to the levy of any judgment, lien, or attachment upon the property of the Tribe or a Tribal Entity other than property specifically pledged, assigned or identified.

End.

Emergency Adoption BC# 5-04-04-D
Adopted BC# 10-20-04-C