

WAGANAKISING ODAWAK STATUTE 2007-010
COMMISSIONS, BOARDS AND COMMITTEES

SECTION I. SHORT TITLE, DEFINITIONS AND PURPOSE

A. SHORT TITLE

 This Statute shall be entitled “The Commissions, Boards and Committees Statute”, which repeals and replaces Waganakising Odawak Statute 2006-07 and 2002-05 and all subsequent amendments. This statute shall comply with all provisions of the Little Traverse Bay Bands of Odawa Indians Constitution.

B. PURPOSE

 The purpose of this Statute is to provide uniform provisions that apply to all Tribal Commissions, Boards and Committees that are composed of Tribal Citizens. Except as specifically stated, this Statute shall not be construed to apply to the Tribal Council and its Committees that are composed of only Tribal Council Members or its Legislative staff, or to the Tribal Chair and his/her Committees that are composed of only Executive staff, or the Chief Judge and his/her Committees that are composed of only the Judiciary or Judiciary staff or constitutionally mandated Commissions, Boards or Committees. This statute shall not replace the statutory purposes, duties and authorities as stated in the specific Commission, Board or Committee statute.

C. DEFINITIONS

 As used in this Statute:

1. “Board”: Boards, which are created by statute by the Tribal Council, shall have input on operation, management and performance of the department and shall provide operating policies and guidelines. However the day-to-day management of the agency remains with the departmental director.

2. “Board Members”: Members appointed to a Board by Tribal Council.

3. “Commissions”: Commissions which are created by statute by the Tribal Council shall be strictly advisory in nature.
4. “Commissioners”: Members appointed to a Commission by Tribal Council.
5. “Committee”: Committees which are created by statute by the Tribal Council shall be temporary in nature and have a specific limited purpose.
6. “Committee Member”: Members appointed to a Committee by Tribal Council.
7. “Constitutional Commission”: As mandated in the LTBB Constitution, (*Refer to Article XI Election Board in the Constitution*).
8. “Employee”: Anyone employed by the LTBB, including governmental and enterprise employees.
9. “Immediate Family”: (*Refer to Article III(F) Immediate Family in the Constitution*) *An immediate family means wife, husband, son, daughter, mother, father, brother, sister, step-mother, step-father, step-brother, step-sister, father-in-law, mother-in-law, child and step-child, grandmother, grandfather, brother-in-law and sister-in-law; including daughter-in-law and son-in-law.*
10. “LTBB”: The Little Traverse Bay Bands of Odawa Indians.
11. “Oversee”: The Tribal Chairperson shall provide oversight for Commission, Boards and Committees created within the Executive Branch. The Tribal Council through the Legislative Leader shall provide oversight for Commissions, Boards and Committees created within the Legislative Branch. The Chief Judge shall provide oversight for Commissions, Boards and Committees created within the Judiciary Branch.
12. “Unexcused Absence”: Failure of a Commissioner, Board Member or Committee Member to notify either the Chair or Secretary of their expected absence from a meeting, prior to the starting time of the scheduled meeting.

SECTION II. CREATION OF TRIBAL COMMISSIONS

A. CREATION

Commissions, Boards and Committees shall be created by the Tribal Council pursuant to article VII, § D(16) of the Constitution. Each Commission, Board and Committee shall comply within the governmental oversight on administrative and management related functions.

1. Commissions, Boards and Committees shall be created or established by law.

SECTION III. DURATION OF TRIBAL COMMISSIONS

A. DURATION

The duration of the Commission, Board or Committee is as follows:

1. Constitutional Commissions, by their very nature, shall be permanent.
2. Commissions, Boards and Committees shall exist for the time specified by statute, or if no time is specified a Commission, Board or Committee shall exist until abolished by future statute.

SECTION IV. AUTHORITY OF COMMISSIONS, BOARDS AND COMMITTEES

A. AUTHORITY

1. The authority of each Commission, Board or Committee is prescribed in its specific statute.
2. Commissions, Boards or Committees may be designated as an autonomous and independent in exercising its authority, powers, duties, and responsibilities as prescribed in its specific statute.

SECTION V. MEETINGS, WORK SESSIONS, NOTICE AND PHONE POLLS OF
THE COMMISSIONS, BOARDS AND COMMITTEES

A. Regular Meetings and Notice

1. Constitutional Commissions shall meet according to the terms of the Constitution.
2. Commissions shall meet quarterly or as needed to meet the duties of the Commission, provided that the funds are available within the Commission's budget.
3. Boards shall meet as needed to meet the duties of the Board.
4. Committees shall meet as needed to carry out the limited, specific purpose of its statute.
5. A calendar of meetings shall be publicly posted in the Tribal Government Administrative Complex, the Tribal Newsletter and posted on-line at the Tribal web-site at the beginning of each year and updated as necessary.
6. Five days prior to a regular scheduled meeting, an agenda including items of action and items of discussion shall be posted on-line at the Tribal web-site and at the Tribal Government Administrative Complex.

B. Special Meetings and Notice

Special meetings may be called from time to time by the Commission, Board or Committee Chairperson or by a majority of its members. Notice of such special meetings shall be given to all Members and publicly posted at least five (5) business days in advance of such meetings, and shall state the purpose or purposes of the meeting. Special meetings shall be restricted to the purpose or purposes for which they are called and an agenda shall be posted.

C. Emergency Meetings and Notice

When immediate official action of the Commission, Board or Committee is necessary to prevent detrimental interests of the Tribe, the Chairperson, or a majority of

the Members may call an emergency meeting. Advance written or verbal notice of such meeting shall be given to each Member to the greatest extent feasible. Emergency meetings shall be restricted to the urgent subject matter necessitating the meeting. Emergency meetings may be conducted by phone conference call or with the aid of such other communication technology as may be available and in common use. A statement shall be put in the minutes of the next scheduled meeting indicating the date and time that the emergency meeting was held. A record shall be kept of emergency meetings and the reason for the meeting and the action taken.

D. Phone Polls and Notice

In situations where vital interests of the Tribe require immediate emergency action prior to a regular or special meeting, such action can be taken by phone poll for the limited purpose of addressing a matter for which the Tribe will suffer severe damage. In such situations, the Secretary or designee must certify that more than one attempt was made to contact each Member by any practical means including telephone, fax, e-mail or in person. The action taken must be ratified at the next regular meeting, and the minutes must state the reason such emergency phone poll was necessary.

E. Work Sessions

In situations where a work session is necessary for the Commission, Board or Committee to carry out its statutory mandates, the work session shall be incorporated within the regular meeting agenda or held on the same day as the regular meeting, if possible.

SECTION VI. COMPOSITION OF TRIBAL COMMISSIONS, OFFICERS, TERMS, QUALIFICATIONS, ELIGIBILITY AND NEPOTISM

A. Composition

1. Commissions, Boards and Committees shall be composed of three (3) and not more than five (5) members unless the Constitution provide otherwise.

B. Officers

1. The Members shall appoint from among themselves one of the Members to serve as

Chairperson and another as Secretary and/or Treasurer for a two (2) year term. There shall be no limit on the number of terms a Chairperson or Secretary and/or Treasurer may serve.

2. A Commission, Board or Committee Member shall not be the Chairperson or chair a meeting if the department director, assistant director, co-director, Tribal Chairperson, Tribal Vice-Chairperson, Legislative Leader or Tribal Chief Judge is an immediate family member.

C. Terms

1. Commission, Board and Committee Members shall be appointed by the Tribal Council. Commissioners, Board Members and Committee Members shall be appointed to a prescribed term or to fill the remaining time of a vacant prescribed term. Removing a Commissioner, Board Member or Committee Member within their prescribed term of office must follow the removal process.

2. Commissioner, Board Member and Committee Member appointments terminate upon the expiration of their term, unless reappointed by Tribal Council.

3. All appointed Commissioners, Board Members and Committee Members shall take an oath of office administered by the Tribal Court and their term starts on the date of taking the oath of office.

4. It shall be the responsibility of the Commission, Board or Committee Chairperson to keep a record of Members' terms, the filling of vacant terms and expiration dates.

5. The Commission, Board or Committee Chairperson shall keep the Tribal Chairperson, and the Legislative Leader apprised of the Commission, Board or Committee's needs for posting of positions, recruitment, expiration of terms and vacancies.

6. The Executive may solicit Tribal Citizens and shall present nominations of eligible appointees to the Tribal Council.

7. Commissioners, Board Members or Committee Members shall serve on no more than two Commissions, Boards or Committees simultaneously.

8. Commissions, Boards or Committees that have additional Members beyond the amount allocated in their specific statute shall come into compliance with their statute by December 31, 2007 in the following manner:

- a. Expired and vacant terms will not be filled.
- b. Such Members' terms having an expiration date nearest to the date of December 31, 2007 shall expire on December 31, 2007.

D. Qualifications

1. Commissioners, Board Members and Committee Members shall be at least eighteen (18) years old and an enrolled Tribal Citizen of the Little Traverse Bay Bands of Odawa Indians.

2. At least one of the appointed Commissioner, Board Member or Committee Member shall possess either education or experience in the specific area of interest of the Commission/Board or related to the industry or an associated field.

E. Eligibility

1. No Commissioner, Board Member or Committee Member shall serve within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned. Felony shall not include any reasonable actions taken pursuant to or in furtherance of Tribal Sovereignty or Treaty Rights.

F. Nepotism

1. Two or more members of the same immediate family shall not serve on the same Commission, Board or Committee at the same time.

SECTION VIII. RESIGNATION, REMOVAL AND VACANCY

A. Resignation

A Commissioner, Board Member or Committee Member may resign at any time by giving a written notice to the Commission, Board or Committee Chairperson or Secretary. The resignation is effective on the date it is received, unless the resignation specifies a later effective date.

B. Removal

1. Commissioners, Board Members or Committee Members appointed by the Tribal Council may be removed during their terms of office for cause only.

2. Cause of removal shall be one of the following:

- a. Commission, Board or Committee related gross misconduct;
- b. repeated negligence of duty on the Commission, Board or Committee; or
- c. conviction of a felony.

3. Hearings held under this section shall be before a Hearing Panel consisting of the Legislative Leader or his or her designated Council Member and two Tribal Citizens randomly selected at-large by the Legislative Office. All members of the Hearing Panel shall be subject to the same rules regarding recusal as would a Judge hearing a Tribal Court case.

4. A petition for removal may be submitted to Tribal Council by any of the following:

- a. Tribal Chairperson;
- b. Tribal Council Member;
- c. Chief Judge;
- d. Fifty (50) Citizens of the Little Traverse Bay Bands of Odawa Indians who have signed a petition and are eighteen years or older ; or

e. Majority of the Commissioners, Board Members or Committee Members sitting on the Commission, Board or Committee.

5. A petition must contain the following:

a. a cause of action for removal: Commission, Board or Committee related gross misconduct, repeated negligence of duty on the Commission, Board or Committee or conviction of a felony; and

b. a statement of facts that supports the cause of action for removal.

6. In the event that the Tribal Council receives a signed petition under this section submitted by Tribal Citizens then the Legislative Leader shall submit the petition to the Enrollment Department for verification that the petition contains a sufficient number of valid signatures; and

Deleted: Board

7. All petitions deemed to have a sufficient number of valid signatures by the Enrollment Department shall be forwarded to the Legislative Leader for a determination by the Hearing Panel.

Deleted: Board

9. Any hearings held by the Hearing Panel shall provide notice of the date, time and location to the Member whose removal is being sought.

10. Notice to the Member whose removal is being sought shall be served no later than two (2) weeks prior to the date set for the hearing, and shall include the petition that states the cause of action for removal and a statement of facts that supports the cause of action for removal. The notice shall also advise the recipient of his/her right to bring witnesses or documents to the hearing that the recipient deems necessary in order to attempt to defend against the charges contained in the petition, and the right of the Member to have an attorney or Tribal Citizen advocate present to represent and assist the Member whose removal is being sought at the hearing.

11. The Hearing Panel shall also provide copies of the notice to the other members of the Commission, Board or Committee from which removal is sought, to the Citizen of the Little Traverse Bay Bands of Odawa Indians who presented the petition, and to the

members of the Tribal Council, to the Tribal Chairperson and to the Chief Judge, advising each of them of the opportunity to appear and to present evidence, either in support of the charges against the Member whose removal is sought or in support of the defense of such member.

12. The Hearing Panel shall preside at the hearing and shall allow as much time as necessary for the testimony of witnesses and presentation of evidence in support of the charges, and as much time as necessary for the testimony of witnesses and presentation of evidence to refute the charges, and such time as the Hearing Panel deems appropriate for summary statements and arguments. At any time, the Hearing Panel may recess the hearing until a later time certain. At the request of the Member whose removal is at issue, the hearing may be held in closed session. The Hearing Panel also may elect to receive in closed session any evidence of which might compromise the proprietary interests of the Tribe or any on-going law enforcement investigation.

13. Upon the conclusion of the presentation of evidence and of summary statements and arguments, the Hearing Panel shall deliberate in closed session and shall either dismiss the petition, remove the member charged in the petition from the Commission, Board or Committee, or take such other disciplinary action as it deems appropriate short of removal, upon such findings of fact as may be appropriate. The decision of the Hearing Panel shall be final as to findings of fact, and no appeal to any other tribunal shall be available. Matters involving due process and procedural justice may be appealed to the Tribal Judiciary.

14. Upon conclusion of the hearing, any information disclosing possible criminal activity shall be promptly reported to Tribal Law Enforcement.

C. Vacancy

1. If a vacancy occurs within an Executive Commission, Board or Committee, the Chairperson or the Secretary of the Commission, Board or Committee shall immediately notify the Executive Branch Chairperson in writing.

2. If a vacancy occurs within a Legislative Commission, Board or Committee, the Chairperson or the Secretary of the Commission, Board or Committee shall immediately

notify the Legislative Leader in writing.

3. If a vacancy occurs within a Judiciary Commission, Board or Committee, the Chairperson or Secretary of the Commission, Board or Committee shall immediately notify the Chief Judge in writing.

SECTION IX. PROCEDURES, QUORUM, VOTING, AND ATTENDANCE

A. Procedures

The Executive, Judiciary and Legislative Branch shall adopt procedures for their Commissions, Boards and Committees in compliance with the policies set-forth in this statute.

B. Quorum

A quorum shall consist of a simple majority of the number of Commissioners, Board Members or Committee Members notwithstanding vacancies. A meeting may not be called to order without a quorum present and no official business may be conducted absent a quorum.

C. Voting

All matters shall be decided by a vote of the majority of the Commissioners, Board Members or Committee Members present, provided a quorum is present.

D. Attendance

Within one (1) year, three (3) unexcused absences from scheduled meetings shall be deemed grounds for gross negligence of duty and cause for removal from a Commission, Board or Committee that meets less than six (6) times a year.

SECTION X. RECOMMENDATIONS AND REPORTING, AND PROPOSED LEGISLATION

A. Recommendations and Reporting

1. Commissions, Board and Committees shall submit to the Tribal Chairperson, Legislative Leader, or Chief Judge, which ever being appropriate, at a minimum a quarterly report and an annual report including recommendations bases on its studies.
2. Any Commission, Board or Committee Member who disagrees with the recommendations may make a written minority report outlining their opposition and submit same to the Tribal Chairperson, Legislative Leader or Chief Judge, where ever being appropriate.
3. All reports received by the Executive Branch or Judiciary Branch shall be forwarded to the Tribal Council within ten (10) business days.

B. Proposed Legislation

Proposed legislation may originate with the Commission, Board or Committee or may be referred to the appropriate Commission, Board or Committee by the Tribal Council and shall be discussed in an open meeting.

SECTION XI. OPEN MEETINGS, RECORDS, MINUTES, CLOSE SESSIONS, AND CONFIDENTIALITY

A. Open Meetings

1. All Commission, Board or Committee meetings shall be open to the public except in matters involving confidentiality: personnel matters, litigation, confidential business matters, sensitive proprietary information, and/or legal matters.
2. Testimony will be limited to Tribal Citizens and invited individuals with expertise.
3. At each Commission, Board or Committee meeting a period of time will be set aside on the agenda for Public Comment. The public comment period is limited to Tribal Citizens, spouses of Citizens, parents of Citizens, Adult children of Citizens or invited individuals with expertise.

4. The Commission, Board or Committee shall not discuss anything in closed session beyond the scope of the matters considered confidential and shall return to open session immediately upon completion of closed session discussions. Any action considered in closed session that can be taken in open session without harming Tribal interests shall be taken after the Commission, Board or Committee returns to open session.

5. Commissions, Boards or Committees may by motion exclude non-LTBB Citizens from all or part of a regular or special meeting in order to protect Tribal interests.

B. Commission, Board or Committee Records

Records shall be open to Tribal Citizens except in cases involving matters of confidentiality: personnel matters, litigation, confidential business matters, sensitive proprietary information, and/or legal matters.

C. Minutes

1. Complete minutes of Commission, Board or Committee meetings shall be received and retained by the appropriate Governmental staff and the Commission, Board or Committee Secretary and a copy of all approved minutes, within thirty (30) days, shall be forwarded to the Tribal Council.

2. All minutes shall be posted except matters of confidentiality such as personnel matters, litigation, confidential business matters, sensitive proprietary information, and/or legal matters.

3. Close session minutes are exempt from public disclosure unless the Tribal Council determines that the public disclosure will no longer harm tribal interest.

D. Closed Sessions

Commission, Board and Committee meeting shall only be closed for significant privacy or confidentiality concerns: personnel matters, litigation, confidential business matters,

sensitive proprietary information, and/or legal matters.

E. Confidentiality

Indian Child Welfare matters are considered confidential along with personnel matters, litigation, confidential business matters, sensitive proprietary information, and/or legal matters.

SECTION XII. APPLICATION OF INDIVIDUAL RIGHTS

Tribal Commissions, Boards and Committees shall comply with the provisions of the LTBB Constitution, Article II, *Individual Rights*.

SECTION XIII. COMPENSATION, STIPENDS AND EXPENSES

A. Compensation and Expenses

Commissioners, Board Members and Committee Members who attend any conference, training, meeting or hearing directly related to their duties or attend any event where their attendance is required shall be compensated for attendance and travel expenses so long as there are funds available in the Commission, Board or Committee's budget.

B. Stipends and Expenses

1. The following apply to Commissions and [may apply to](#) Committees:

a. Subject to availability of funds, Commissioners and Committee Members must be in attendance for at least seventy-five percent (75%) of the meeting in order to receive a stipend unless forced to leave due to severe weather or personal or family emergency.

b. Any Commissioner or Committee Member who attends a properly noticed meeting at which the agenda items are properly addressed shall be eligible for a stipend and travel expenses, even if no official action can be taken due to lack of quorum.

c. Phone conferences and Phone Polls do not constitute a meeting in which a Commissioner or Committee Member will receive a stipend.

d. Stipends will not be paid to Commissioners or Committee Members if that body has failed to send draft minutes and attendance log with the stipend request from the same meeting, to the Executive Department as well as posting any meeting minutes on the Tribal website and in government buildings.

2. Any Commission, Board Member or Committee Member who attends a properly noticed meeting shall be eligible for mileage and expenses, even if no official action can be taken due to lack of a quorum.

3. The following applies to Board:

a. Board Members may receive a salary.

SECTION XIV. APPROPRIATIONS AND BUDGET

1. Each Commission, Board and Committee shall submit yearly to the Tribal Council Appropriations and Finance Committee the amount of funds received, expended and unspent.

2. Each Commission, Board or Committee shall submit their annual budget requests to the Tribal Council Appropriations and Finance Committee within the established timeframes in accordance with the *Budget Formulation Process Statute*.

SECTION XV. EMPLOYEE AND STAFF PARTICIPATION

A. Employee Participation

1. LTBB employees may serve as Commissioners, Board or Committee Members and be compensated by stipend or annual salary if that Commission, Board or Committee is not directly related to their employment, does not interfere with their work, and does not meet during scheduled work hours. If Commission, Board or Committees meets

during scheduled working hours and the employee wishes to attend, the employee must utilize PTO (personal time off), or flextime upon prior approval of the individual's supervisor.

2. Appropriate Governmental staff shall assist the Commission, Board or Committee and the individual Commissioners, Board Members and Committee Members in carrying out their statutory duties and responsibilities and shall assist with administrative functions.

SECTION XVI. TRIBAL PREFERENCE

In appointing Commissioners, Board Members or Committee Members only Tribal Citizens shall be eligible for appointment.

SECTION XVII. NEPOTISM, CONFLICT OF INTEREST AND DISCLOSURE

A. Nepotism

No Commissioner, Board Member or Committee Member may participate in making any decision that involves a personal or financial interest for him or herself or their immediate family unless such interest is held in common with the Tribe and its citizens.

B. Conflict of Interest and Disclosure

1. No Commissioner, Board Member or Committee Member shall influence the application of established operating policy and procedures that would benefit any person, program or agency who would otherwise not have benefited.

2. Each Commissioner, Board Member or Committee Member shall sign a disclosure statement identifying any and all personal or pecuniary interest that may be a potential conflict with their position as a Commissioner, Board Member or Committee Member in accordance with *Financial Disclosure by Tribal Officials Statute*.

SECTION XVIII. SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this

statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

SECTION XIX. EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from Tribal Council approval, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on November 18, 2007 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.				X
Melvin L. Kiogima	X			
Dexter McNamara	X			
Marvin Mulholland	X			
Shirley Oldman	X			
Alice Yellowbank	X			
Gerald Chingwa	X			
Regina Gasco Bentley	X			
Beatrice A. Law	X			

Date: _____

 Beatrice A. Law, Legislative Leader

Date: _____

 Regina Gasco Bentley, Secretary

Received by the Executive Office on _____ by _____

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: _____

 Frank Ettawageshik, Tribal Chairperson