WAGANAKISING ODAWAK STATUTE 2013-009
FAIR TREATMENT for BENEFITS or SERVICES

SECTION I. PURPOSE

The Little Traverse Bay Bands of Odawa Indians, based on traditional cultural values, creates this Statute to ensure fair treatment and protection against discrimination in the receipt of benefits or services offered by the Tribe and the exercise of the enforcement for violations of this Statute.

SECTION II. DEFINITIONS

A. "Benefits or Services" means participation in, the benefits of, or any service, program, activity or public accommodation provided by the Tribe.

B. "Employee" means an individual employed by the Little Traverse Bay Bands of Odawa Indians including Tribal Government Administration, commercial entities, sub-entities and the Odawa Casino Resort and ancillary enterprises and activities beginning on the first day of work and after the employment process and issuance of a temporary gaming license.

C. "Malice" means the intent, without just cause or reason, to commit a wrongful act that will result in harm to another.

D. "Official" means any person holding an elective or appointed office in any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency and any establishment within the Executive, Legislative or Judiciary branch of the Tribe including Members of the Election Board and Prosecutors.

E. "Reckless indifference" means conscious or reckless disregard of the consequences of one's acts or omissions.

F. "Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians" means "areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of

the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third and fourth' of the Treaty of 1855, 11 Stat.621." Little Traverse Bay Bands Constitution, Article V(A)(1)(a).

G. "Tribal Council" The Tribal Council of the Little Traverse Bay Bands of Odawa Indians.

H. "Tribe" means the Little Traverse Bay Bands of Odawa Indians and includes any Tribal entity or sub-entity of the Tribe.

SECTION III. FAIR TREATMENT and DISCRIMINATION

A. Recognizing the traditional Odawak value of equality, mutual respect and respect for differences, the Tribe determines fair treatment to mean not to discriminate against a person on the ground of religion, race, color, national origin, ethnicity, age, sex, height, weight, familial status, marital status, disability, perceived disability, sexual orientation, arrest or detention records, or other disposition in which a conviction did not result.

B. Discriminate means to exclude a person from participation in, be denied the benefits of, or be subjected to discrimination under any service, program, activity or accommodation provided by the Tribe, unless such benefit or service is limited by the following:

1. Tribal Constitution
2. Tribal law
3. Funding
4. Limited to Tribal Citizens
5. *Indian Preference in Tribal Employment Statute,* WOS 2002-04, and any successor law

SECTION IV. TRIBAL COURT

The Tribal Court shall have the jurisdiction to hear charges of violations of this Statute based on fair treatment and discrimination.

SECTION V. LIMITED WAIVER OF SOVEREIGN IMMUNITY

A. The Tribe clearly and expressly waives its sovereign immunity to the Equitable Remedies as set forth in this Statute and clearly and expressly waives its sovereign immunity to Damages as set forth within this Statute for the Tribe, officials and its employers and limits such waiver to remedies as set forth within this Statute wherein the Tribe, officials or employees who act beyond the scope of their duties and authority in which the actions include either acting with malice or with reckless indifference discriminates against a person under this Statute and limits such waiver to remedies as set forth within this Statute.

B. The Tribe asserts no sovereign immunity for third-parties; and limits the remedies as set forth by this Statute.

SECTION VI. REMEDIES AND DAMAGES

A. Any charge of violation must be filed with the Tribal Court within one-hundred and eighty (180) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth:

1. *Equitable Remedies.* If the Tribal Court finds that violation of discrimination occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

- **a.** An order to cease and desist from the unlawful practices specified in the order;
- **b.** Community services or similar penalty.

2. *Damages.* If the Tribal Court finds a blatant violation of discrimination, the Tribal Court may additionally award compensatory, punitive damages or fines as provided in this subparagraph.

a. A complainant may recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

b. A complainant may recover punitive damages if the complainant demonstrates that the violation of discrimination was done with malice or with reckless indifference to the rights of an aggrieved individual protected by this Statute.

3. The total sum of compensatory, punitive damages and/or fines may not exceed $10,000.00.

4. When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded if demonstrated that good faith efforts were made or the accommodation would create an undue hardship on the operation of the Tribe.

5. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

6. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems.

SECTION VII. 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 or ordinances 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 VIII. EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by override by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on August 4, 2013 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Belinda Bardwell	X			
William I. Denemy	X			
Kevin Gasco	X			
John Keshick III	X			
Aaron Otto	X			
Winnay Wemigwase	X			
John Bott	X			
Regina Gasco Bentley	X			
Melvin L. Kiogima	X			

Date: 8.4.13 _____
Melvin L. Kiogima, Legislative Leader

Date: 8-4-13 Regina Gasco Bentley
Regina Gasco Bentley, Secretary

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005. The Tribal Council hereby overrides the Executive veto.