

WAGANAKISING ODAWAK STATUTE # 2010-016
CONSTITUTIONALLY MANDATED COMPENSATION
FOR JUDGES AND JUSTICES

SECTION I. PURPOSE

This Compensation Statute is hereby enacted to establish the compensation levels for the Judges and Justices based on Constitutional duties. This Statute replaces and repeals Waganakising Odawak Statute 2008-014 Constitutionally Mandated Compensation Statute Waganakising Odawak Statute 2003-05 *Tribal Council Compensation* and WOS 2005-04 *Constitutionally Mandated Compensation* and any previous Statute, Resolution or Policy language with regard to compensation levels for such positions as stated in this purpose.

SECTION II. DEFINITIONS

A. “*Annual Salary*” means the amount of annual compensation paid during the calendar year for Judiciary activities in conjunction with carrying out Tribal Council Constitutional duties or any relevant Statute.

B. “*Attorney*” means licensed to practice in Tribal Court and courts of a state in the United States.

C. “*Compensation*” means an annual compensation to be paid in equal increments to be determined by the Judiciary.

D. “*Full-time status*” means an average of forty (40) hours a week with reasonable time off for sickness or disability, holidays or personal time. Work assignments are expected to be completed during the normally scheduled work week, with reasonable flexibility and extra hours as necessary.

E. *“Part-time status”* means an average of twenty (20) hours or less a week with reasonable time off for sickness or disability, holidays or personal time. Work assignments are expected to be completed during the normally scheduled work week, with reasonable flexibility and extra hours as necessary.

F. *“Tribal Constitution”* means the LTBB Constitution adopted by the Tribal Membership February 2, 2005.

G. *“Tribe”* shall mean the Little Traverse Bay Bands of Odawa Indians.

SECTION III. COMPENSATION CHANGE RESTRICTIONS

Any statutory amendment changing the level of compensation for the Judges and Justices shall not decrease the amount of compensation during the individual appointed terms.

SECTION IV. COMPENSATION ESTABLISHED FOR JUDGES

A. Chief Judge is considered full-time status and shall be compensated and paid a set annual salary to fulfill the responsibilities as outlined in the Constitution and any relevant Statute as follows and shall be subject to federal and state (if applicable) taxation. Tax withholdings are elective and may be withheld from each payment:

1. 0 to 5 years experience as an attorney shall be paid \$85,000.00
2. 6 to 9 years experience as an attorney shall be paid \$110,000.00
3. 10 years or more experience as an attorney shall be paid \$135,000.00
4. Is not a licensed attorney but with 0 to 5 years experience sitting as an active judge then shall be paid \$60,000.00
5. Is not a licensed attorney but with 6 to 9 years experience of sitting as an active judge then shall be paid \$75,000.00s
6. Is not a licensed attorney but with 10 years or more experience sitting as an active judge then shall be paid \$90,000.00
7. Contributions to the Tribe’s retirement plan or a similar plan shall be allowed

with the same conditions and restrictions applied to Tribal employees and other contributors in the Tribal Government Retirement plan.

8. Health insurance, life insurance and other Tribal insurance programs at the same rate as governmental employees.

B. The Associate Judge(s) position is considered to be part-time status and shall be compensated and paid a set annual salary to fulfill the responsibilities as outlined in the Constitution and any relevant Statute as follows and shall be subject to federal and state (if applicable) taxation. Tax withholdings are elective and may be withheld from each payment:

1. 0 to 5 years experience as an attorney shall be paid \$40,000.00
2. 6 to 9 years experience as an attorney shall be paid \$50,000.00
3. 10 years or more experience as an attorney shall be paid \$65,000.00
4. Is not a licensed attorney but with 0 to 5 years experience sitting as an active judge then shall be paid \$25,000.00
5. Is not a licensed attorney but with 6 to 9 years experience of sitting as an active judge then shall be paid \$35,000.00
6. Is not a licensed attorney but with 10 years or more experience sitting as an active judge then shall be paid \$50,000.00

SECTION V. COMPENSATION ESTABLISHED FOR APPELLATE JUSTICES

A. Appellate Justices shall be compensated and paid an annual salary in the amount of \$15,000.00 and shall be subject to federal and state (if applicable) taxation. Tax withholdings are elective and may be withheld from each payment.

SECTION VI. TRAVEL EXPENSE

A. Travel expenses for approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy, as approved by

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Tribal Council.

SECTION VII. COMPENSATION PROHIBITIONS

Persons receiving compensation authorized by this Statute shall be prohibited from:

- A. Receiving unemployment compensation for any reductions or termination of said compensation.
- B. Receiving any other type of payment as compensation not explicitly listed in this Statute, including stipends.
- C. Receiving overtime compensation.

SECTION VIII. SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IX. EFFECTIVE DATE

- A. Effective upon signature of the Executive or thirty (30) days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.
- B. This Statute will not effect the compensation of any sitting Judge or Associate Judge during their term of office and will only apply to any new appointments made after the effective date of this Statute.

C. This Statute in addressing Appellate Justices' compensation will take effect upon either the enactment or after January 1, 2011, which ever is later.

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 October 24, 2010 at which a quorum was present, by a vote of 7 in favor, 2 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Marvin Mulholland	X			
Belinda Bardwell	X			
Melvin L. Kiogima	X			
Gerald V. Chingwa	X			
Rita Shananaquet		X		
Aaron Otto		X		
John Bott	X			
Regina Gasco Bentley	X			
Julie Shananaquet	X	/		

Date: 10/24/10 _____
 Julie A. Shananaquet, Legislative Leader

Date: 10-24-10 _____
 Regina Gasco Bentley, Secretary

Received by the Executive Office on 10-25-10 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: 11-19-10 _____
 Ken Harrington, Tribal Chairperson