

Chapter 2. Child Welfare Commission

5.201PURPOSE

The purpose of this Statute is to create the Child Welfare Commission as an advisory and foster care licensing entity to protect and promote the welfare of Tribal children and families. This Statute repeals and replaces Waganakising Odawa Statute, 2009-013 and any amendments thereto to protect and promote the welfare of Tribal children and families. This Statute repeals and replaces Waganakising Odawa Statute, 2009-013 and any amendments thereto.

(Source: WOS 2012-011, August 5, 2012, Section I)

5.202 DEFINITIONS

- A.** “Department” means the Human Services Department.
- B.** “Emergency” means an unexpected situation that requires immediate action.

(Source: WOS 2012-011, August 5, 2012, Section II)

5.203 CREATION

- A.** Creation of Commission. The Tribal Council hereby creates the Child Welfare Commission, which shall consist of five (5) Tribal members at least eighteen (18) years of age appointed by the Tribal Council.
- B.** Term and compensation. Members of the Child Welfare Commission shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. One of the Commission members shall be appointed by the Commission to serve as Chairperson for a one (1) year term. One of the Commission members shall be appointed by the Commission to serve as Vice-Chair. There shall be no limit on reappointment as long as the Chairperson and /or Vice Chair remain on the Commission. The Tribal Council may determine and authorize compensation to be paid to members of the Commission based upon the Tribal Council's determination of the time to be expended upon Commission duties and the qualifications of the appointed Commissioners.

C. Oath of Office. Upon appointment, The Tribal Court shall administer the Oath of Office to members of the Child Welfare Commission which shall include a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians and to perform faithfully and diligently the duties and responsibilities set forth in this Statute.

D. Vacancies. In the event a vacancy occurs in the Child Welfare Commission, by virtue of death, resignation or removal, the Tribal Council shall appoint a qualified Tribal Citizen to fill the remaining term of office.

E. Removal. Members may be removed in accordance with applicable laws.

(Source: WOS 2012-011, August 5, 2012, Section III)

5.204 DUTIES

A. The Child Welfare Commission shall have the following duties:

- 1.** Shall be the licensing and monitoring body of community based shelter facilities including: group, shelter, foster, adoptive homes, and child placing agencies in consultation with the Department and other applicable entities.
- 2.** Shall be advised of pending state court proceedings and may make verbal or written recommendations to the Tribal Prosecutor regarding intervention in such proceedings and transfer of jurisdiction from state court to the Tribal Court.
- 3.** May advise the Executive on general child welfare matters (non-case-specific), and recommend statutes, policies and procedures to protect children and help families.
- 4.** May make recommendations to the Tribal Prosecutor and Department regarding the need to take formal court action to protect a child.
- 5.** May make recommendations for programs and services to the Department.
- 6.** Appear in court proceedings as required pursuant to valid subpoenas or court order.

7. Commission members shall not be involved in investigations outside of Commission meetings.

8. All Child Welfare Commission recommendations shall be placed in the Department file which is open and available to all parties to the proceeding.

B. Licensing of Child Placement. The Commission shall develop regulations for issuing and monitoring community based shelter facility licenses that shall be submitted to Tribal Council for approval. Such regulations shall include minimal home safety standards and qualifications for license holders. The Human Services Department shall conduct home and facility studies and present its assessments and recommendations for licensing to the Commission for approval or denial.

C. Notice.

1. Pending State Court Proceedings. Upon receipt of notice of a State Court proceeding, the Tribal Prosecutor shall provide a copy to the Child Welfare Commission.

2. Children Domiciled on the Reservation. Tribal Prosecutor shall notify the Commission of all instances where they believe Tribal Court action may be necessary to protect a child domiciled on the Reservation.

D. Meetings, Emergency Meetings, Voting, Conflicts of Interest, Confidential Records.

1. Meetings. The Child Welfare Commission shall meet as necessary to carry out its duties. Due to the confidential nature of the business conducted by the Child Welfare Commission, meetings or portions of meetings where specific cases are being discussed shall be closed to all persons other than those whose participation is necessary and appropriate to the specific case.

2. Emergency Meetings. Emergency meetings shall be held for any urgent matter arising from an unexpected situation requiring immediate action.

3. Voting. Actions of the Child Welfare Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters

brought before the Commission. A quorum shall consist of three (3) members. Any action may be ratified by non-attending members. If ratification is sought, all non-attending members shall be contacted personally, or by phone or fax, and all ratifications shall be reduced to writing and placed in the minutes and approved at the next regularly scheduled Commission meeting.

4. Investigation. The Commission shall not be involved in gathering information on Tribal families and children outside of Commission meetings. Field work, such as home studies, shall be conducted by Department. When requested by the Commission, the Department shall provide the Commission with all written reports and studies on Tribal families and children. The Commission may request the Department to gather additional information where appropriate. All members shall have access to the same information. If Commission members are contacted individually, they shall refer inquiries to the appropriate Tribal official or staff member.

5. Conflicts of Interest. Commission members who are serving as foster parents or guardians may participate in the review of the status of children under their own care only to the extent as any other foster parent or guardian. Commission members shall not participate in the review of the status of children under the care of members of their immediate family (father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child) as defined in the Constitution and may absent themselves in any situation where their relationship with individuals before the Commission may interfere with their objectivity, or the Commissioner otherwise believes that he/she has or appears to have a conflict of interest.

6. Confidential Records. All records of the Commission involving specific child welfare matters shall be kept confidential. Confidential records may be introduced and used in court cases. Confidential records may be reviewed by an auditor and such auditor shall adhere to any applicable Code of Conduct standards.

(Source: WOS 2012-011, August 5, 2012, Section IV)

5.205 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.

(Source: WOS 2012-011, August 5, 2012, Section V)

5.206 EFFECTIVE DATE

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

(Source: WOS 2012-011, August 5, 2012, Section VI)