

Chapter 8. Qualified Expert Witness Designation

5.801 PURPOSE

The Little Traverse Bay Bands of Odawa Indians creates this Statute to designate, and set forth the qualifications of, the qualified expert witness for child welfare proceedings in which a qualified expert witness is necessary or required by Tribal, State or Federal law.

(Source: WOS 2018-003, March 23, 2018, Section I)

5.802 DEFINITIONS

- A. “Department of Human Services” means the Little Traverse Bay Bands of Odawa Indians Human Services Department.
- 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. “Indian Child Welfare Act” means 25 UCS 1903 *et seq.* (“ICWA”) or its successor statute.
- D. “Michigan Indian Family Preservation Act” means MCL 712B.1-41 (“MIFPA”) or its successor statute.
- E. “Qualified Expert Witness” means the individual designated by the Tribe to testify on behalf of the Tribe in ICWA or MIFPA proceedings, or other similar proceedings.
- F. “Tribal Chairperson” means the Tribal Chairperson of the Little Traverse Bay Bands of Odawa Indians.
- G. “Tribal Citizen” means an individual who is enrolled with the Little Traverse Bay Bands of Odawa Indians.
- H. "Tribal Council" The Tribal Council of the Little Traverse Bay Bands of Odawa Indians.
- I. “Tribe” means the Little Traverse Bay Bands of Odawa Indians and includes any Tribal

entity or sub-entity of the Tribe.

(Source: WOS 2018-003, March 23, 2018, Section II)

5.803 DESIGNATION OF QUALIFIED EXPERT WITNESS

The Tribal Chairperson shall designate a Tribal Citizen as the qualified expert witness for the Tribe consistent with the qualifications set forth in this statute, to testify in Federal or State Court child welfare proceedings in which a qualified expert witness is necessary or required by Tribal, State or Federal law.

(Source: WOS 2018-003, March 23, 2018, Section III)

5.804 QUALIFICATIONS OF THE QUALIFIED EXPERT WITNESS

The qualified expert witness shall have the following qualifications:

- A.** Must be an enrolled Citizen of the Little Traverse Bay Bands of Odawa Indians.
- B.** Must be at least twenty-five years of age.
- C.** Must demonstrate knowledge and proficiency in Odawa cultural and social norms, history and traditional practices.
- D.** Must possess knowledge of and experience with Indian childrearing practices.
- E.** Must not be an employee of the Little Traverse Bay Bands of Odawa Indians Department of Human Services, Tribal Law Enforcement, Tribal Court or Prosecutor's Office.

(Source: WOS 2018-003, March 23, 2018, Section IV)

5.805 PUBLICATION AND NOTIFICATION

- A.** The Tribal Chairperson, or their designee, shall notify any tribal, state or federal agency responsible for implementing ICWA or MIFPA with the identity and contact information of the Tribe's designated qualified expert witness.

B. The Tribal Chairperson, or their designee, shall publish, or cause to be published, the identity and contact information for the Tribe's designated qualified expert witness on the Tribe's website.

(Source: WOS 2018-003, March 23, 2018, Section V)

5.806 REGULATIONS

In accordance with the Administrative Procedures Act, WOS 2015-019, the Tribal Chairperson shall submit regulations to the Tribal Council within one-hundred and twenty (120) days of the enactment of this statute which shall at a minimum set forth the selection process and criteria the Tribal Chairperson shall utilize in selecting the qualified expert witness.

(Source: WOS 2018-003, March 23, 2018, Section VI)

5.807 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.

(Source: WOS 2018-003, March 23, 2018, Section VII)

5.808 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.

(Source: WOS 2018-003, March 23, 2018, Section VIII)

5.809 OTHER RELATED STATUTES

See WOS 2015-019 Administrative Procedures Act, WOS 2012-010 Child Protection Statute, WOS 2012-011 Child Welfare Commission, WOS 2000-09 Direct Consent and Open Adoptions, or as may be amended.

(Source: WOS 2018-003, March 23, 2018, Section IX)