



**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 9 – CONFIRMATION PROCESS OF EXECUTIVE
DIRECTORS FOR THE HO-CHUNK NATION ACT**

ENACTED BY LEGISLATURE: FEBRUARY 20, 2001

AMENDED AND RESTATED: JULY 22, 2003

CITE AS: 2 HCC § 9

This Act supersedes HCC 96-005, Confirmation Process of Executive Directors for the Ho-Chunk Nation Act of 1996 as amended by Ho-Chunk Nation Legislative Resolutions 7/20/99F, 9/28/99B, and 8/10/99F.

Last Amended and Restated by Ho-Chunk Nation Legislative Resolution 7/22/03A.

1. Authority.

- a. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
- b. Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget.
- c. Article V, Section 2(e) of the Constitution grants the Legislature the power to raise revenue, including the power to levy and collect taxes and license fees.
- d. Article VI, Section 2(e) of the Constitution grants the President the power to nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed.

2. Purpose. The purpose of this Act is to assist in an orderly transition between Executive administrations through a confirmation process. This Act shall be applicable to all Executive Directors, Interim Directors, and candidates for a Director position.

3. Definitions. As used in this Act, the following shall have the meaning provided here.

- a. “Confirmation” means giving legal force to the appointment of an Interim Director or Nominee as a Director of an Executive Department.

b. “Confirmation Hearing” means that hearing conducted by the Legislature for the purpose of considering Background Investigation results of an Interim Director in rendering a confirmation.

c. “Executive Director” means the person selected by the President and confirmed by the Legislature to serve as director of one of the Executive Branch departments.

d. “Interim Director” means a candidate whose nomination has been accepted by the Legislature and is awaiting confirmation. An Interim Director shall not possess the powers of a confirmed Executive Director, but shall be limited to the administration of the department in accordance with paragraph 5g.

e. “New Administration” means the installation of a new President regardless of the reason, i.e., election, re-election, or appointment.

f. “Nomination Hearing” means that hearing conducted by the Legislature for the purpose of obtaining information from the candidate in rendering a nomination acceptance recommendation to the full Legislature.

g. “President-Elect” means the individual duly elected to the Office of the President as certified by the Election Board, but who has not yet taken the Oath of Office

4. Qualifications.

a. Any Interim Director selected by the President or President-Elect shall, at a minimum, meet the qualifications for employment contained in the position description approved by the Legislature.

b. The President or President-Elect shall not nominate an individual convicted of a felony, unless pardoned for that felony.

5. Nomination Process. The President, pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation, must name all Executive Directors, subject to the confirmation of the Legislature.

a. Confirmation by the Legislature of an Executive Director during a previous presidential administration shall have no force nor effect in subsequent New Administrations nor, in the event that an individual is re-elected as President, shall nominations or appointments remain in force or effect.

b. Nominations.

(1) The President-Elect of a New Administration resulting from an election shall submit to the Legislature, within thirty (30) days after the election results are certified, his/her candidates for all Executive Director positions. The President-Elect shall include with the nomination letter to the Legislature a complete resume of the candidate, a list of

at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate's consent to a background investigation.

(2) The President of a New Administration resulting from an appointment shall submit to the Legislature, within thirty (30) days after the appointment, his/her candidates for all Executive Director positions. The President shall include with the nomination letter to the Legislature a complete resume of the candidate a list of at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate's consent to a background investigation.

(3) In the event that an Executive Director vacancy occurs for any reason, the President must nominate within fourteen (14) days of such vacancy a candidate to fill the vacant position. The President shall include with the nomination letter to the Legislature a complete resume of the candidate, a list of at least three (3) personal and/or business references of the candidate, and a signed release form with the candidate's consent to a background investigation.

c. The Legislature may conduct Nomination Hearings as deemed required to obtain further information about or from the candidate.

d. In the event that the Legislature denies a nomination, the President shall have fourteen (14) days to nominate another candidate for that Executive Director position.

e. Candidates whose nominations have been accepted but not confirmed by the Legislature shall hold the title of Interim Director until such time their appointment is confirmed or denied.

f. Upon acceptance of a nomination, the Legislature must confirm or deny the appointment of the Interim Director to Director within ninety (90) days after acceptance of the nomination or it shall be deemed confirmed.

g. Powers and Restrictions of Interim Director. An Interim Director shall not possess the powers of a confirmed Executive Director, but shall be limited to the administration of the department. The Interim Director shall lack the power to hire, terminate, promote, or make decisions affecting subordinate employee compensation until confirmed, but may follow the employment laws in matters of disciplinary actions, up to and including the ability to suspend as needed for the administration of the department. Compensation of the Interim Director shall be set at the base wage for that position until confirmed, unless the Interim Director was the immediate prior office holder, served as the confirmed Executive Director in the immediate prior Presidential Administration and is being put forth as a nominee. The Interim Director shall have restricted travel privileges. The Interim Director shall be prohibited from travel for forty-five (45) days, unless the travel is required or mandated for the explicit purpose of completing a task specific to and for the Nation. The restriction on travel covers travel to conferences and training within the forty-five (45) days, but does not include travel for the express purpose of completing a required job task.

6. Background Investigation. The Legislature shall designate the Compliance Division to conduct a background investigation on each Interim Director whose nomination has been accepted. Such investigation shall be concluded within forty-five (45) days and include a written summary of any findings. The investigation shall include, but is not limited to the following information:

- a. Education qualifications.
- b. Results of contacts with the nominee's references.
- c. State of Wisconsin or any other state criminal investigation and/or criminal conviction records.
- d. Federal Bureau of Investigation (FBI) records check.
- e. A review of the Financial Disclosure Statement by the Interim Director that shall include ownership or interest in any business, partnership, or corporation.

7. Confirmation Process.

a. By Legislature.

(1) The Legislature shall schedule and conduct Confirmation Hearings on each Interim Director within ten (10) working days of receipt of the results of their Background Investigation.

(2) The Legislature shall schedule and conduct a Confirmation Vote on each Interim Director within fourteen (14) days of the Confirmation Hearing.

(3) Upon confirmation, the appointment of the Director has full force and effect.

(4) In the event that the Legislature denies a confirmation, the President shall have fourteen (14) days to nominate another candidate for that Executive Director position. From the effective date of the denial, the position of the Executive Director shall be considered vacant. The candidate who was denied shall vacate the position and abdicate the title of Interim Director within 48 hours of the effective date of denial. The person serving as second in command as delineated in the Department's organizational chart shall serve until an Executive Director has been nominated, confirmed, or until an Interim Executive Director assumes the position.

b. Pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation (see paragraph 1d), an Interim Director shall be deemed confirmed if the Legislature fails to take a confirmation vote within ninety (90) days of accepting the nomination.

8. Confidentiality.

a. It shall be unlawful for any current or former employee or contractor to reveal to any individual, any information discovered under this Act. All information obtained shall be protected by applicable Tribal, federal, or state laws; unless explicit permission is given by the candidate.

b. The candidate may have access to his or her file only by complying with the requirements set forth in the *Ho-Chunk Nation Discovery Act*.

9. **Severability.** If any provision of this law shall in the future be declared invalid by the Judiciary, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Legislative History:

9/10/96 Adopted by the Legislature.
8/10/99 Amended by Legislative Resolution 8/10/99F.
7/20/99 Section 306 amended by Legislative Resolution 7/20/99F.
9/28/99 Sections 307 thru 311 amended by Legislative Resolution 9/28/99B.
2/20/01 Enacted as 2 HCC § 9 by Legislative Resolution 2/20/01A.
2/27/01 Amended and Restated by Legislative Resolution 2/27/01B adding paragraph 5g.
4/3/01 Legislative Resolution 4/3/01D amended the effective date of 2HCC9 to July 1, 2001.
12/19/01 Amended and Restated by Legislative Resolution 12/19/01C amending paragraph 7a(4) requiring incumbent nominees to vacate their positions if not confirmed by the Legislature.
7/22/03 Amended and Restated by Legislative Resolution 7/22/03A amending paragraph 5g establishing the wage for Interim Directors who are incumbent Executive Directors being re-nominated to the same position.