

Title 10. General Welfare Exclusion - Chapter 1003

ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND

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1003.1. Purpose and Policy

1003.1-1. *Purpose.* The purpose of this law is to create the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term.

1003.1-2. The Oneida Higher Education Pandemic Relief Fund shall assist students to meet the needs created by the Public Health Emergency which caused grants, scholarships, and loans to be forsaken by the granting institutions or banks during the novel coronavirus pandemic, and personal and family funds redirected to other needs during the ongoing Public Health Emergency, including medical expenses and losses due to unemployment within the family.

1003.1-3. *Policy.* It is the policy of the Nation to prioritize the education of its members young and old. The Nation provides a path and a platform for its Tribal members to excel in their education from Head Start through college and post-graduate studies. The Nation's future business and government leaders, caregivers, nourishers, managers, thought leaders, and teachers shall be better prepared to lead and navigate the local challenges in a global economy when they participate in the academics and accreditation that permits access to areas our Nation requires to remain viable and vital over the next seven generations.

1003.1-4. The Oneida Higher Education Pandemic Relief Fund shall be funded only through monies allocated to the Nation pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF), codified at Section 601(d) of the Social Security Act, for the purpose of addressing their higher education needs created by the Public Health Emergency in the wake of the COVID-19 pandemic.

1003.1-5. The Oneida Higher Education Pandemic Relief Fund is a unique program not associated with the Oneida Trust Scholarship Fund and this law does not amend or override the Trust Scholarship Fund Policy at 9 O.C. 901 et seq.

1003.1-6. The Oneida Business Committee intends the Oneida Higher Education Pandemic Relief Fund to adhere to the mandates of the Oneida General Welfare law, 10 O.C. 1001, the Tribal General Welfare Exclusion Act codified at 26 U.S.C. §139E, I.R.S Rev. Proc. 2014-35, the general criterion defined therein at 5.01(1), and the Safe Harbor – Education Programs listed and defined therein at 5.01(2)(b), and CRF.

1003.2. Adoption, Amendment, Repeal

1003.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by resolution BC-08-12-20-E, and emergency amended by BC-08-25-20-A.

1003.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1003.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1003.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

1003.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1003.3. Definitions

1003.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Accredited” means qualified and approved by a United States Department of Education recognized accrediting body, state-approved accrediting body, or recognized through a professional affiliation.

(b) “Benefits” means any approved program assistance, including payments, which is provided pursuant to this law.

(c) "Classroom requirement" means books, subscriptions, access to internet-based programs, or any items required by the higher education institution, professor, or teacher of the course in which the student is enrolled.

(d) “General Test” means the criteria used to determine if any assistance or benefits provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:

- (1) Paid on behalf of the Nation;
- (2) Pursuant to an approved program;
- (3) Does not discriminate in favor of members of the governing body of the Nation;
- (4) Are available to any Tribal member who meets the guidelines of the approved program;
- (5) Are for the promotion of general welfare;
- (6) Are not lavish or extravagant;
- (7) Are not compensation for services; and
- (8) Are not per capita payments.

(e) "Higher education institution" means an accredited university, college, vocational college, community college, liberal arts college, postgraduate school, institute of technology or other collegiate level institution.

(f) “Higher Education Pandemic Relief Counselor” means the person hired and assigned by the Oneida Higher Education Division to assist Oneida Economic Support Services in the review and processing of the Oneida Higher Education Pandemic Relief Fund.

(g) “Nation” means the Oneida Nation.

(h) “Public Health Emergency” means the economic, governmental, and medical crises caused by COVID-19 and the novel coronavirus pandemic.

(i) “Room and board” means on or off campus housing, transportation, and food requirements adjusted to meet the unique lodging and food provision requirements or governmental mandates during the Public Health Emergency.

(j) “Student” means a Tribal member, age eighteen (18) and older, enrolled in a higher education institution during the operative period of this law.

(k) “Technology requirements” means computers, internet access fees, VPN subscriptions, computer-based or cloud-based subscriptions required to function within a contemporary academic setting such as Office 365, Adobe-based programs, other required licenses, and electric or telecommunications costs.

(l) “Tuition” means the price or payment for instruction at a higher education institution.

(m) "Tribal member" means an individual who is an enrolled member of the Nation.

1003.4. Guidelines and Requirements

1003.4-1. The Oneida Higher Education Pandemic Relief Fund is established to meet the higher education needs of its students during the COVID-19 Public Health Emergency.

1003.4-2. The Oneida Higher Education Pandemic Relief Fund shall provide students:

- (a) Up to twenty thousand dollars (\$20,000) towards tuition, room and board, technology requirements, and classroom requirements assistance.
- (b) Tuition shall be paid directly to the higher education institution upon submission of an invoice for tuition created by the higher education institution.
- (c) Student expenses, such as room and board and other expenses, shall be paid directly to the student, whom shall be responsible for maintaining and submitting receipts or other proof of expenditures by December 15, 2020.
- (d) All funds shall be requested pursuant to the Oneida Higher Education Pandemic Relief Fund standard operating procedure.
- (e) Laptop computers may be supplied to the student upon a written request by the student to the Nation's Higher Education Pandemic Relief Counselor and in accordance with the Nation's interpretation of CRF and any applicable standard operating procedure.

1003.4-3. Oneida Higher Education Department shall oversee distribution of the Oneida Higher Education Pandemic Relief Fund in accordance with this law, CRF, and the Nation's interpretation thereof. The Oneida Higher Education Department shall hire the Higher Education Pandemic Relief Counselor whom shall be assigned to work in the office of Oneida Economic Support Services. Oneida Higher Education shall be responsible for the maintenance of records along with the Oneida Accounting Department.

1003.4-4. *Maintenance of Records.*

- (a) *Nation.* The Nation requires students to submit tuition invoices, leases, room and board expenses, and any other proof of expenses or receipts to substantiate the request for payments from the Oneida Higher Education Pandemic Relief Fund by December 15, 2020. The Nation shall maintain these records for the required period of time by the CARES Act, CRF, and Internal Revenue Service mandates.
- (b) *Student.* The student shall maintain accurate records of the above listed items for review by the Internal Revenue Service upon request.

1003.5. Presumption of Need; General Test for General Welfare Exclusion

1003.5-1. I.R.S. Rev. Proc. 2014-35, section 5.02(2)(B) lists education programs that assist tribal members with tuition, housing, room and board, technology requirements and laptop computers as a Safe Harbor program for which need is presumed.

1003.5-2. The Oneida Higher Education Pandemic Relief Fund meets the requirements of the General Test as defined in the Oneida General Welfare law, 10 O.C. 1001; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5.01(1); and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b).

- (a) The benefits are provided to the students pursuant to this law, as approved by the Oneida Business Committee, and in accordance with Oneida General Welfare law.
- (b) The Oneida Higher Education Pandemic Relief Fund has guidelines specifying how Students qualify for the benefit in section 1003.4 of this law.
- (c) The program is available to any student as defined in Section 1003.3-1(i) of this law.
- (d) The distribution of benefits does not discriminate in favor of members of the governing body of the Nation, are not compensation, and are not lavish or extravagant under the facts

and circumstances of the Public Health Emergency.

1003.6. Budget

1003.6-1. The Nation shall allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the CRF. This program is dependent on availability of funding from the CRF.

End.

Emergency Adopted - BC-08-12-20-E
Emergency Amended – BC-08-25-20-A