



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

October 7, 2020

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public due to the Public Health State of Emergency. This is a preventative measure as a result of the COVID-19 pandemic. An audio recording of the meeting will be made available on the Nation's website.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. August 19, 2020 LOC Meeting Minutes (pg. 2)
2. August 28, 2020 LOC Officer Selection Minutes (pg. 8)

III. Current Business

1. Petition: M. Debraska – Increase GTC Meeting Stipend (pg. 9)

IV. New Submissions

1. Budget Management and Control Law Amendments (pg. 14)
2. Children's Code Emergency Amendments (pg. 16)
3. Community Support Fund Law Amendments (pg. 41)
4. Child Support Law Amendments (pg. 44)
5. Layoff Policy Amendments (pg. 58)
6. Furlough Law Amendments (pg. 59)

V. Additions

1. Misappropriation of Funds Law - HANDOUT (pg. 60)

VI. Administrative Updates

1. 2017-2020 LOC Active Files List Outstanding Items Review (pg. 61)
2. E-Poll Results: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law (pg. 63)
3. E-Poll Results: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergency Amendments to the Active Files List and Approve the Extension of the GTC Meeting Stipend Payment Policy Emergency Amendments Adoption Packet (pg. 88)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
August 19, 2020
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King.

Others Present: Clorissa N. Santiago, Kristen Hooker, Aliskwet Ellis.

I. Call to Order and Approval of the Agenda

David Jordan called the August 19, 2020, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda: seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

III. Current Business

1. Emergency Management and Homeland Security Law Emergency Amendments

Motion by Jennifer Webster to approve the Extension of the Emergency Management and Homeland Security law Emergency Amendments packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

2. Oneida Nation School Board Bylaws

Motion by Kirby Metoxen to accept the Oneida Nation School Board Bylaws and forward the Bylaws to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

1. E-Poll Results: Materials for the Adoption of Emergency Amendments to the Election Law Amendments

Motion by Jennifer Webster to enter into the record the results for the March 16, 2020, e-poll titled "Materials for the Adoption of Emergency Amendments to the Election Law;" seconded by Ernest Stevens III. Motion carried unanimously.

2. E-Poll Results: Materials for the Adoption of Emergency Amendments to the Boards, Committees, and Commissions Law

A good mind. A good heart. A strong fire.



Motion by Jennifer Webster to enter into the record the results for the March 16, 2020, e-poll titled "Materials for the Adoption of Emergency Amendments to the Boards, Committees, and Commissions Law;" seconded by Daniel Guzman King. Motion carried unanimously.

3. E-Poll Results: Materials for the Adoption of Emergency Amendments to the Emergency Management and Homeland Security Law

Motion by Daniel Guzman King to enter into the record the results for the March 17, 2020, e-poll titled "Materials for the Adoption of Emergency Amendments to the Emergency Management and Homeland Security Law;" seconded by Kirby Metoxen. Motion carried unanimously.

4. E-Poll Results: Approval of the Oneida Personnel Policies and Procedures Emergency Adoption Packet

Motion by Jenny Webster to enter into the record the results for the March 25, 2020, e-poll titled "Approval of the Oneida Personnel Policies and Procedures Emergency Adoption Packet;" seconded by Daniel Guzman King. Motion carried unanimously.

5. E-Poll Results: Approval of the March 18, 2020 LOC Meeting Minutes

Motion by Kirby Metoxen to enter into the record the results for the March 26, 2020, e-poll titled "Approval of the March 18, 2020 LOC Meeting Minutes;" seconded by Ernest Stevens III. Motion carried unanimously.

6. E-Poll Results: Rescission of the March 25, 2020, LOC Approval of the Oneida Personnel Policies and Procedures Emergency Adoption Packet

Motion by Ernest Stevens III to enter into the record the results for the March 27, 2020, e-poll titled "Rescission of the March 25, 2020, LOC Approval of the Oneida Personnel Policies and Procedures Emergency Adoption Packet;" seconded by Daniel Guzman King. Motion carried unanimously.

7. E-Poll Results: Approval of Vehicle Driver Certification and Fleet Management Law Amendments Adoption Packet

Motion by Jennifer Webster to enter into the record the results for the March 27, 2020, e-poll titled "Approval of Vehicle Driver Certification and Fleet Management Law Amendments Adoption Packet;" seconded by Ernest Stevens III. Motion carried unanimously.

8. E-Poll Results: Approval of the Tobacco Law Amendments Public Comment Period

Motion by Jennifer Webster to enter into the record the results for the March 31, 2020, e-poll titled "Approval of the Tobacco Law Amendments Public Comment Period;" seconded by Ernest Stevens III. Motion carried unanimously.

9. E-Poll Results: Approval of Children's Burial Fund Policy Amendments Adoption Packet

Motion by Kirby Metoxen to enter into the record the results for the April 3, 2020, e-poll titled "Approval of Children's Burial Fund Policy Amendments Adoption Packet;" seconded by Jennifer Webster. Motion carried unanimously.

10. E-Poll Results: Approval of the Children's Code Six Month Review Memorandum

Motion by Jennifer Webster to enter into the record the results for the April 13, 2020, e-poll titled "Approval of the Children's Code Six Month Review Memorandum;" seconded by Ernest Stevens III. Motion carried unanimously.

11. E-Poll Results: GTC Stipend Payment Policy

Motion by Ernest Stevens III to enter into the record the results for the April 2, 2020, e-poll titled "GTC Stipend Payment Policy;" seconded by Kirby Metoxen. Motion carried unanimously.

12. E-Poll Results: Add General Tribal Council Meeting Stipend Payment Policy Emergency Amendments to the Active Files List

Motion by Jennifer Webster to enter into the record the results for the April 7, 2020, e-poll titled "Add General Tribal Council Meeting Stipend Payment Policy Emergency Amendments to the Active Files List;" seconded by Daniel Guzman King. Motion carried unanimously.

13. E-Poll Results: Approval of the Curfew Law Amendments Materials and Fiscal Impact Request Memorandum

Motion by Kirby Metoxen to enter into the record the results for the April 20, 2020, e-poll titled "Approval of the Curfew Law Amendments Materials and Fiscal Impact Request Memorandum;" seconded by Daniel Guzman King. Motion carried unanimously.

14. E-Poll Results: Approval of the Domestic Animals Law Amendments Materials and Fiscal Impact Request Memorandum

Motion by Kirby Metoxen to enter into the record the results for the April 20, 2020, e-poll titled "Approval of the Domestic Animals Law Amendments Materials and Fiscal Impact Request Memorandum;" seconded by Daniel Guzman King. Motion carried unanimously.

15. E-Poll Results: Approval of the Oneida Food Service Code Amendments Adoption Packet and the Oneida Food Service Law Fine, Penalty and Licensing Fee Schedule Resolution

Motion by Jennifer Webster to enter into the record the results for the May 1, 2020, e-poll titled "Approval of the Oneida Food Service Code Amendments Adoption Packet and the Oneida Food Service Law Fine, Penalty and Licensing Fee Schedule Resolution;" seconded by Daniel Guzman King. Motion carried unanimously.

16. E-Poll Results: Approval of the Curfew Law Amendments Adoption Packet

Motion by Kirby Metoxen to enter into the record the results for the May 4, 2020, e-poll titled "Approval of the Curfew Law Amendments Adoption Packet;" seconded by Ernest Stevens III. Motion carried unanimously.

17. E-Poll Results: Approval of the Domestic Animals Law Amendments Adoption Packet and the Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule Resolution

Motion by Jennifer Webster to enter into the record the results for the May 4, 2020, e-poll titled "Approval of the Domestic Animals Law Amendments Adoption Packet and the Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule Resolution;" seconded by Daniel Guzman King. Motion carried unanimously.

18. E-Poll Results: Adoption of Election Law Emergency Amendments Adoption

Packet

Motion by Ernest Stevens III to enter into the record the results for the May 5, 2020, e-poll titled "Adoption of Election Law Emergency Amendments Adoption Packet;" seconded by Daniel Guzman King. Motion carried unanimously.

19. E-Poll Results: Approval of the Tobacco Law Amendments Materials and Fiscal Impact Request Memorandum

Motion by Kirby Metoxen to enter into the record the results for the May 11, 2020, e-poll titled "Approval of the Tobacco Law Amendments Materials and Fiscal Impact Request Memorandum;" seconded by Jennifer Webster. Motion carried unanimously.

20. E-Poll Results: Approval of the Boards, Committees, and Commissions Law Amendments Materials and Public Comment Period

Motion by Jennifer Webster to enter into the record the results for the May 12, 2020, e-poll titled "Approval of the Boards, Committees, and Commissions Law Amendments Materials and Public Comment Period;" seconded by Ernest Stevens. Motion carried unanimously.

21. E-Poll Results: Approval of the LOC's FY20 Second Quarter Report

Motion by Kirby Metoxen to enter into the record the results for the May 18, 2020, e-poll titled "Approval of the LOC's FY20 Second Quarter Report;" seconded by Jennifer Webster. Motion carried unanimously.

22. E-Poll Results: Approval of the Tobacco Law Amendments Adoption Packet and the Tobacco Law Penalty and Fine Resolution

Motion by Kirby Metoxen to enter into the record the results for the May 28, 2020, e-poll titled "Approval of the Tobacco Law Amendments Adoption Packet and the Tobacco Law Penalty and Fine Resolution;" seconded by Ernest Stevens III. Motion carried unanimously.

23. E-Poll Results: Approval of the Boards, Committees, and Commissions Law Amendments Updated Public Comment Period

Motion by Jennifer Webster to enter into the record the results for the June 5, 2020, e-poll titled "Approval of the Boards, Committees, and Commissions Law Amendments Updated Public Comment Period;" seconded by Ernest Stevens III. Motion carried unanimously.

24. E-Poll Results: Approval of the Industrial Hemp Law Public Comment Period Notice Packet

Motion by Jennifer Webster to enter into the record the results for the June 10, 2020, e-poll titled "Approval of the Industrial Hemp Law Public Comment Period Notice Packet;" seconded by Daniel Guzman King. Motion carried unanimously.

25. E-Poll Results: Approval of the Oneida Election Board's Request for Emergency Amendments to the Election Law

Motion by Jennifer Webster to enter into the record the results for the June 12, 2020, e-poll titled "Approval of the Oneida Election Board's Request for Emergency Amendments to the Election Law;" seconded by Daniel Guzman King. Motion carried unanimously.

26. E-Poll Results: Approval of the Election Law Emergency Amendments Adoption Packet

Motion by Kirby Metoxen to enter into the record the results for the June 16, 2020, e-poll titled "Approval of the Election Law Emergency Amendments Adoption Packet;" seconded by Ernest Stevens III. Motion carried unanimously.

27. E-Poll Results: Certification of the Leasing Law Rule No. 4 –Home Building Opportunities Residential Leasing

Motion by Jennifer Webster to enter into the record the results for the June 30, 2020, e-poll titled "Certification of the Leasing Law Rule No. 4 –Home Building Opportunities Residential Leasing;" seconded by Daniel Guzman King. Motion carried unanimously.

28. E-Poll Results: Approval of the Extension of the Real Property Law Emergency Amendments

Motion by Jennifer Webster to enter into the record the results for the July 13, 2020, e-poll titled "Approval of the Extension of the Real Property Law Emergency Amendments;" seconded by Ernest Stevens III. Motion carried unanimously.

29. E-Poll Results: Approval of the Boards, Committees, and Commissions Law Amendments Public Comments Materials, and FIS Request Memorandum

Motion by Ernest Stevens III to enter into the record the results for the July 16, 2020, e-poll titled "Approval of the Boards, Committees, and Commissions Law Amendments Public Comments Materials, and FIS Request Memorandum;" seconded by Daniel Guzman King. Motion carried unanimously.

30. E-Poll Results: Approval of the Boards, Committees, and Commissions Law Amendments Adoption Packet

Motion by Kirby Metoxen to enter into the record the results for the July 30, 2020, e-poll titled "Approval of the Boards, Committees, and Commissions Law Amendments Adoption Packet;" seconded by Jennifer Webster. Motion carried unanimously.

31. E-Poll Results: Approval of the Boards, Committees, and Commissions Law Amendments Adoption Packet

Motion by Jennifer Webster to enter into the record the results for the July 31, 2020, e-poll titled "Approval of the Boards, Committees, and Commissions Law Amendments Adoption Packet;" seconded by Ernest Stevens III. Motion carried unanimously.

32. E-Poll Results: Approval of the LOC's FY2020 Third Quarter Report

Motion by Kirby Metoxen to enter into the record the results for the August 3, 2020, e-poll titled "Approval of the LOC's FY2020 Third Quarter Report;" seconded by Daniel Guzman King. Motion carried unanimously.

33. E-Poll Results: Approval of the Oneida General Welfare Law and the Oneida Higher Education Pandemic Relief Fund Law

Motion by Jennifer Webster to enter into the record the results for the August 5, 2020, e-poll titled "Approval of the Oneida General Welfare Law and the Oneida Higher Education Pandemic Relief Fund Law;" seconded by Ernest Stevens. Motion carried unanimously.

34. E-Poll Results: Approval of the Industrial Hemp Law Public Comments Materials and FIS Request Memorandum

Motion by Ernest Stevens III to enter into the record the results for the August 4, 2020, e-poll titled "Approval of the Industrial Hemp Law Public Comments Materials and FIS

Request Memorandum;” seconded by Daniel Guzman King. Motion carried unanimously.

35. LOC 2017-2020 End of Term Report

Motion by Ernest Stevens III to Approve the LOC 2017-2020 End of Term Report and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:24 a.m.; seconded by Ernest Stevens III. Motion carried unanimously.



LEGISLATIVE OPERATING COMMITTEE OFFICER SELECTION MINUTES

Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center

August 28, 2020

1:00 p.m.

Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers.

Others Present: Clorissa N. Santiago, Kristen Hooker.

I. Call to Order

David P. Jordan called the August 28, 2020, Legislative Operating Committee Officer Selection to order at 1:11 p.m.

II. Officer Selection

1. Selection of Legislative Operating Committee Chairperson

Motion by Jennifer Webster to elect David P. Jordan as LOC Chairperson; seconded by Daniel Guzman King. Motion carried unanimously.

2. Selection of Legislative Operating Committee Vice-Chairperson

Motion by Jennifer Webster to elect Kirby Metoxen as LOC Vice-Chairperson; seconded by Daniel Guzman King. Motion carried. Kirby Metoxen abstained.

III. Adjourn

David P. Jordan adjourned the Legislative Operating Committee Officer Selection at 1:12 p.m.





Legislative Operating Committee
October 7, 2020

Petition: M. Debraska – Increase GTC Meeting Stipend

Submission Date: 2/19/20

LOC Sponsor: David P. Jordan

Summary: *This petition was carried over from the previous term. This petition calls for a special General Tribal Council (GTC) meeting to be held on a Saturday only to allow for greater membership participation with this petition being the only thing on the agenda, within one-hundred twenty (120) days of receipt of this petition, to discuss the following:*

- 1. To double the stipend pay for all GTC meeting(s) from \$100.00 to \$200.00 to be effective in either September or October 2020 for approval by GTC; and*
- 2. The Business Committee will contact petitioner, in writing, to discuss the date and time of this scheduled GTC meeting if the Business Committee does not schedule the meeting on a Saturday to allow petitioner to challenge the Business Committee's decision of the scheduling. The Business Committee will follow all applicable rule and regulations currently in place for contacting petitioner.*

The Oneida Business Committee acknowledged receipt of the petition on February 12, 2020. On February 26, 2020, the Oneida Business Committee assigned the petition to the semi-annual GTC meeting agenda tentatively scheduled on July 27, 2020, and directed that the Law, Finance, and Legislative Reference Offices to complete and submit the legal review, fiscal impact statement, and statement of effect, respectively, to the Secretary by May 19, 2020. Due to the COVID-19 pandemic the July Semi-Annual GTC meeting was canceled.

Next Steps:

- Accept the statement of effect for Petition: M. Debraska – Increase GTC Stipend and forward to the Oneida Business Committee.



Statement of Effect

Petition: M. Debraska – Increase GTC Meeting Stipend

Summary

This petition requests the General Tribal Council to consider doubling the stipend payment for attendance at all General Tribal Council meetings from one hundred dollars (\$100) to two hundred dollars (\$200) to be effective in either September or October 2020.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: October 2, 2020

Analysis by the Legislative Reference Office

On January 21, 2020, the Petition: M. Debraska - Increase GTC Meeting Stipend (“the Petition”) was submitted to the Business Committee Support Office by Michael Debraska and has since been verified by the Oneida Trust Enrollment Department. On February 12, 2020, the Oneida Business Committee acknowledged receipt of the Petition. On February 26, 2020, the Oneida Business Committee directed that the Legislative Reference Office complete a statement of effect for the Petition.

The purpose of this Petition is to “*direct the Chairman of the Oneida Nation to call for a Special General Tribal Council (GTC) meeting to be held on a Saturday only to allow for the greater membership participation with this petition being the only thing on the agenda, within one-hundred twenty (120) days of receipt of this petition to discuss the following:*

- 1. To double the stipend pay for all GTC meeting(s) from \$100.00 to \$200.00 to be effective in either September or October 2020. The increase will be included in the 2021 budget cycle of the Oneida Nation as presented to GTC in either September or October 2020 for approval by GTC; and*
- 2. The Business Committee will contact petitioner, in writing, to discuss the date and time of this scheduled GTC meeting if the Business Committee does not schedule the meeting on a Saturday to allow petitioner to challenge the Business Committee’s decision of the scheduling. The Business Committee will follow all applicable rule and regulations currently in-place for contacting petitioner.”*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

August 11, 2007 General Tribal Council Directive

On August 11, 2007, a Special General Tribal Council meeting was held to discuss establishing an office of General Tribal Council to review and monitor all aspects of tribal operations, the payment of one hundred dollars (\$100) to eligible voters attending GTC meetings, and the development of a five thousand (\$5,000) to ten thousand (\$10,000) per capita payment for Fiscal Year 2008.

During this special meeting the General Tribal Council adopted a motion made by Madelyn Genskow, seconded by Nancy Skenandore, that a stipend of one hundred dollars (\$100) be paid to any General Tribal Council member who attends a General Tribal Council meeting and is eligible to vote and stays until the end of the meeting effective in calendar year 2008 and for all time.

General Tribal Council Meeting Stipend Payment Policy

The General Tribal Council Meeting Stipend Payment Policy was developed in an effort to establish rules and processes to be followed for eligible Oneida Tribal members to receive a stipend for attending a General Tribal Council meeting in accordance with the August 11, 2007, General Tribal Council directive.

The General Tribal Council Meeting Stipend Payment Policy governs the payment of stipends for attendance at General Tribal Council meetings at which a quorum is established and maintained and where official business of the Nation is conducted. [1 O.C. 111.1-1, 111.1-2]. The General Tribal Council Meeting Stipend Payment Policy provides that any member of the Nation who meets the following requirements shall receive a stipend for attending a General Tribal Council meeting where a quorum is established:

- be a qualified voter, in accordance with the Constitution of the Oneida Nation;
- register, or be in line to register, no later than fifteen (15) minutes after the published starting time of the meeting by checking in at a registration table, filling out any required forms, and providing a valid Tribal or state issued picture identification;
- be present for the entire meeting, from the time the meeting is called to order until the meeting is adjourned; and
- check out and provide a valid Tribal or state issued picture identification card after the meeting ends. [1 O.C. 111.4-2(a)-(d)].

The General Tribal Council Meeting Stipend Payment Policy itself does not establish the amount of a stipend a person is eligible to receive for attendance at a General Tribal Council meeting, but provides that the amount of the stipend a person is eligible to receive is determined by the General Tribal Council. [1 O.C. 111.4-1]. The General Tribal Council Meeting Stipend Payment Policy does contain a footnote which provides the August 11, 2007 General Tribal Council directive which set the specific stipend amount at one hundred dollars (\$100).

Ten Day Notice Policy

The Ten Day Notice Policy was adopted by the General Tribal Council to provide a clear and concise statement of procedures to be followed by the General Tribal Council and the Oneida Business Committee during General Tribal Council meetings. [1 O.C. 110.1-3]. The Ten Day Notice Policy provides that any action to over rule previous passed motions or resolutions shall require a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)]. Therefore, action to overrule the August 11, 2007, General Tribal Council motion that “a stipend of one hundred dollars (\$100) be paid to any General Tribal Council member who attends a General Tribal Council meeting and is

eligible to vote and stays until the end of the meeting” to increase the amount of the meeting stipend would require a two-thirds (2/3) vote by the General Tribal Council.¹

Inclusion of Increased General Tribal Council Meeting Stipend in the Fiscal Year 2021 Budget

The Petition calls for the increased stipend “to be effective in either September or October 2020. The increase will be included in the 2021 budget cycle of the Oneida Nation as presented to GTC in either September or October 2020 for approval by GTC.” The Petition’s requirement that the increased General Tribal Council meeting stipend be included in the 2021 budget cycle and presented to the General Tribal Council for adoption in September or October 2020 cannot be met.

After this Petition was submitted, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1]. At the time this statement of effect was drafted the Public Health State of Emergency had since been extended until October 12, 2020 through adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A. As a result of this Public Health State of Emergency all General Tribal Council meetings were canceled.

On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-A titled, “*Adoption of Tier IV Budget Contingency Plan for the Remainder of Fiscal Year 2020 As a Result of Potential COVID-19 Pandemic Financial Impacts*” which declared that the Nation was implementing the Tier IV measures under its Budget Contingency Plan that was put in place pursuant to the Budget Management and Control law for when the Nation is experiencing extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. Shortly thereafter, the Oneida Business Committee implemented the Budget Contingency Plan’s Tier V measures, through adoption of resolution BC-04-08-20-C titled, “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*” which required five percent (5%) mandatory budget cuts across the Nation, a reduction of all funding to essential services only and layoffs for the remainder of Fiscal Year 2020.

The Nation’s Finance Team identified that it was impossible to identify revenues at any level of accuracy during this Public Health State of Emergency as the economy is impacted and beyond as the economy recovers, which impacts the ability to generate a budget for the Fiscal Year 2021. Due to the fact that the Oneida Business Committee would not be able to develop and present a Fiscal Year 2021 budget to the General Tribal Council by September 30, 2020, a continuing budget

¹ Although it is within the discretion of the General Tribal Council to change the stipend amount a person is eligible to receive for attendance at a General Tribal Council meeting, on April 8, 2020, the Oneida Business Committee adopted emergency amendments to the General Tribal Council Meeting Stipend Payment Policy through resolution BC-04-08-20-A which allows the Oneida Business Committee to decide through adoption of a resolution to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time deemed necessary by the Oneida Business Committee to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)]. This emergency amendment was made due to the financial impacts of the COVID-19 pandemic on the Nation. The Oneida Business Committee then adopted resolution BC-04-08-20-F titled, “*Halting General Tribal Council Meeting Stipend Payments for FY2020 and FY2021*” which declared that General Tribal Council meeting stipend payments will not be paid in Fiscal Year 2020 and Fiscal Year 2021.

resolution was sought by the Oneida Business Committee, in accordance with the Budget Management and Control law, to be in place until such time as a budget is adopted by the General Tribal Council. [1 O.C. 121.5-9]. On August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J titled, “*Continuing Resolution for Fiscal Year 2021*” which provided that Fiscal Year 2021 expenditures shall derive from each fund unit’s approved contingency plan (Fiscal Year 2020 budget) as impacted by resolution BC-04-08-20-C, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services.

The inclusion of an increased General Tribal Council meeting stipend will not be included in the Fiscal Year 2021 budget cycle and presented to the General Tribal Council for adoption in either September or October of 2020. These deadlines cannot be met because the Nation does not yet have a Fiscal Year 2021 budget developed as a result of the COVID-19 pandemic, and is operating under a continuing resolution as adopted through resolution BC-08-12-20-J. The increased General Tribal Council meeting stipend may be addressed when the next budget is developed and presented to the General Tribal Council for adoption, but it is unknown at this time when that may occur.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: M. Debraska – Increase GTC Meeting Stipend would not have a legislative impact as long as the following conditions are met:

1. Action by the General Tribal Council to increase the amount of the stipend a person is eligible to receive for attendance at a General Tribal Council meeting from one hundred dollars (\$100) to two hundred dollars (\$200) would require a two-thirds (2/3) majority vote by the General Tribal Council in accordance with the Ten Day Notice Policy.
2. A Fiscal Year 2021 budget that contains the inclusion of increased General Tribal Council meeting stipends would need to comply with the budgeting process provided for in the Budget Management and Control law and be adopted by the General Tribal Council before the increased stipend could go into effect. This will not occur before October 2020 as the Petition directs due to the fact that a Fiscal Year 2021 budget has not been developed as a result of the COVID-19 pandemic, and the Nation is operating under a continuing resolution as adopted through resolution BC-08-12-20-J.

Requested Action

Accept the statement of effect for the Petition: M. Debraska – Increase GTC Meeting Stipend.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: August 12, 2020
- 2) Contact Person(s): Clorissa N. Santiago
 Dept: Legislative Reference Office
 Phone Number: (920) 869-4417 Email: csantia@oneidanation.org
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
On August 12, 2020, the Oneida Business Committee adopted a motion to "send the entire subject of Supervision of the Chief Financial Officer to the Legislative Operating Committee for further analysis to create permanent amendements in the Budget Manager Control law for Tiers III, IV, and V for future events."

List any supporting materials included and submitted with the Agenda Request Form

- 1) Excerpt from 8/12/20 OBC Minutes
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Budget Management and Control Law
- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

11. Accept the reorganization-restructure recommendations for Finance Administration (00:52:11); (01:03:53)

Sponsor: Trish King, Treasurer

Motion by Ernie Stevens III to adopt resolution 08-12-20-I Supervision of the Chief Financial Officer with the noted changes [in lines 36 and 37, delete "and until such time as the finances of the Nation have stabilized" and replace with "or six (6) months, or any Tier V budget restrictions, whichever is longer"] and move the resolution to open session, seconded by Daniel Guzman King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by David P. Jordan to recess at 12:05 p.m. until 1:30 p.m., seconded by Brandon Stevens. Motion withdrawn.

Motion by Lisa Summers to send the entire subject of Supervision of the Chief Financial Officer to the Legislative Operating Committee for further analysis to create permanent amendments in the Budget Manager Control law for Tiers III, IV, and V for future events, seconded by Trish King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item V.G. was addressed next.

Motion by David P. Jordan to support the five (5) reorganization/restructure recommendations for Finance Administration listed in the Treasurer's memorandum dated August 6, 2020, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: Trish King

12. Review and determine next steps - annual evaluation for BC DR09 and layoff reports (01:04:38)

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to accept the discussion as information, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: Trish King

13. Review recall request and determine next steps - Gaming Marketing (01:05:00)

Sponsor: Louise Cornelius, Gaming General Manager

Motion by David P. Jordan to approve the recall request from Gaming Marketing for one (1) Marketing Research Analyst, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: Trish King

Motion by David P. Jordan to approve the recall request from Gaming Marketing for one (1) Executive Assistant, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: Trish King



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
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AGENDA REQUEST FORM

- 1) Request Date: 8/25/2020
- 2) Contact Person(s): Jennifer Berg-Hargrove and Peggy Schneider
 Dept: ICW and Law Office
 Phone Number: 920-490-3876 Email: jhargrov@oneidanation.org
- 3) Agenda Title: Emergency Amendments to the Children's Code: Customary Adoption
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
We are requesting that Customary Adoption be changed to a
suspension of rights rather than a termination of rights. We currently
have a case in Tribal Court which would fit under Customary Adoption,
but because we have it listed as a termination, it will leave the adopting
family as ineligible for Adoption Assistance with the State.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Adoption Assistance Application
- 2) Wisconsin Adoption Assistance Guide for Tribes
- 3) Adoption Assistance Agreement
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Children's Code Chapter 708
- 6) Please list all other departments or person(s) you have brought your concern to:
Previously addressed this during the adoption of the Code.
- 7) Do you consider this request urgent? ☒ Yes ☐ No
 If yes, please indicate why:
The current case cannot be completed without this change and the child needs permanency

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Michelle L. Gordon Digitally signed by Michelle L. Gordon
 Date: 2020.08.25 16:27:17 -05'00'

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

Wisconsin Adoption Assistance Guide for Tribes



Purpose

This guidance is for tribes completing adoptions or customary adoptions through tribal court. It provides an overview and understanding of the requirements of applying for Adoption Assistance, as well as suggestions for completing the Adoption Assistance process timely. All forms mentioned may be found on the DCF website: <https://dcf.wisconsin.gov/forms>.

Adoption Assistance Overview

Adoption assistance helps adoptive parents support the cost of care of a child after adoption or after the child was placed with a family for adoption. The Department of Children and Families (the Department) may provide Adoption Assistance to the parent(s) of an adopted child or the proposed adoptive parents of a child placed for adoption. To receive Adoption Assistance, the child and family must meet certain eligibility requirements and the proposed adoptive parents must have an approved and signed Adoption Assistance Agreement with the Department. There are several types of Adoption Assistance for which the child and family may or may not be eligible, as shown below ([Ch. DCF 50 Admin Code](#)). The family is not required to be eligible for all types of Adoption Assistance, and may only qualify for Medical Assistance.

| Type of Assistance | Description | Eligibility |
|---|--|---|
| Monthly Subsidy | Adoption assistance may include a monthly dollar amount to the adoptive parents to assist in meeting the financial demands of caring for a child's special needs. | Not all families receive a monthly subsidy under their AA Agreement. Eligibility for the subsidy is based on the child. The subsidy amount is determined by the level of the child's special needs and cannot exceed the maximum amount authorized under law. |
| Medical Assistance | Adoption assistance also includes Medical Assistance eligibility through Wisconsin's Medicaid Program. Families are not required to place their adopted child on their private health insurance plan. | All families with an approved and signed Adoption Assistance Agreement will have Medical Assistance for their child. |
| One Time Reimbursement of Adoption Expenses | Reimbursement for reasonable and necessary adoption fees, court costs, attorney fees and other expenses <i>directly related to</i> the legal adoption and which are not incurred in violation of state or federal law. | Any family with an approved and signed Adoption Assistance Agreement can submit claims within two years from the date of adoption finalization. Costs may be reimbursed up to a maximum of \$2,000. |

Adoption Assistance does not include eligibility for other services such as respite, Children's Long Term Support Waiver, Supplemental Security Income (SSI), etc. Other benefits or programs must be applied for through the applicable local agency and follow eligibility requirements for each program. The Wisconsin Post Adoption Resource Centers (PARC) in each region may be able to assist families in navigating these resources. Contact information for each PARC may be found here: <https://dcf.wisconsin.gov/map/adoption/parc>.

Eligibility for Adoption Assistance

To be eligible for Adoption Assistance, certain criteria must be met under [Wisconsin Statute § 48.975](#) and [Ch. DCF 50 Administrative Code](#). Wisconsin residency is not an explicit eligibility requirement for adoption assistance, but may be a determining factor for which state holds the adoption assistance agreement. In this scenario, the tribal agency must contact the Department for additional guidance.



- ✓ The child must be under 18 years of age at the time of the adoption;
- ✓ The child must have special needs or be at a high risk of developing special needs due to one of the following:
 - a. In order to be eligible for Adoption Assistance with a **monthly subsidy**, the child must meet ONE or more of the following criteria:
 - The child is 10 years of age or older if age is the only factor in determining eligibility;
 - The child is a member of a sibling group of three or more who must be placed together;
 - The child is a member of a minority race and children of that minority race cannot be readily placed due to a lack of appropriate placement resources;

- The child is an Indian Child, which is defined under §48.02(8g) as any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe in any of the following ways:
 - As a member of the Indian tribe;
 - As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
 - The child has a total of five or more needs that have been identified as moderate or intensive in the areas listed in [Ch. DCF 56.23\(2\)\(a\) 1.a to e.](#) in the rate schedule. This is determined by completing the Child and Adolescent Needs and Strengths (CANS) tool.
- b. If the child is not eligible for Adoption Assistance with a monthly subsidy according to the above criteria, the child may be eligible for an Adoption Assistance Agreement to receive medical assistance and one time reimbursement for adoption related expenses. The child must be considered **“at high risk”** of developing a moderate or intensive level of special needs as described above based on ONE or more of the following:
- Either or both of the child’s birth parents have a documented medical diagnosis or medical history that could result in a condition for the child to exhibit moderate or intensive special needs.
 - The child’s birth mother received inappropriate prenatal care that could later result in the child developing moderate or intensive special needs and the inappropriate care is documented in medical or hospital records.
 - The child’s birth mother used harmful drugs or alcohol during pregnancy that could later result in the child developing moderate or intensive special needs and the use of the harmful drugs or alcohol during pregnancy is documented in medical, hospital, law enforcement, or court records; the records of a county department or the department; or the records of an agency under contract with a county department or the department to provide child welfare services. The Department will accept a tribal human service agency’s documentation as meeting this requirement.
 - The child has experienced four or more placements with extended family or foster homes that could affect the normal attachment process.
 - The child experienced neglect in the first three years of life or sustained physical injury or physical disease that could have a long-term effect on physical, emotional, or intellectual development.



The child must be available for adoption per the following:

- a. Following the death of parents, a Termination of Parental Rights (TPR) or Suspension of Parental Rights (SPR);
- b. The child must be under the guardianship (different than legal custody) of an adoption agency, which includes a tribal child welfare agency;
- c. The adoption agency must determine the child cannot or should not return to the home of his or her parents, as documented in the Adoption Assistance application;
- d. The authorized adoption agency had placed the child in an adoptive placement.



Reasonable efforts must be made to assure a timely placement of the child with the best available family without adoption assistance. An exception to this may be granted by the adoption agency if any of the following are met:

1. The child has developed significant emotional ties with the foster family and all of the following conditions are met:
 - a. Identifies himself or herself as a member of the family;
 - b. Is regarded by the foster parents, foster siblings, community and school as belonging to that family; and
 - c. Has, because of his or her attachment to the foster family and other factors such as age and number of previous placements, a diminished probability of forming new attachments if denied permanence with this family.
2. The proposed adoptive parents request adoption assistance for a child placed in the proposed adoptive parents' home for adoption without adoption assistance if the child demonstrates a special need before the adoption is finalized.

If the tribal agency has reviewed the Adoption Assistance eligibility requirements and wishes to apply for Adoption Assistance, there are several factors to consider prior to moving forward with the application. The following section describes these factors for agency consideration prior to moving on to procedure.

Eligibility for Adoption Assistance should not be the determining factor for whether adoption or customary adoption is the appropriate permanency option for the child. The tribe must first determine that the child is unable to return to the home of his/her parents and that adoption or customary is the appropriate permanency option for the child. If the tribal agency has made the decision to pursue a termination or suspension of parental rights and a subsequent adoption or customary adoption, the tribal agency should then proceed with determining eligibility for Adoption Assistance per the above eligibility requirements.

Factors Affecting the Adoption Assistance Process

There are several factors related to the adoption of the child that may affect the tribal agency's decisions for the process of obtaining Adoption Assistance, including how and when to complete required paperwork:

- Whether the tribal agency completes a *termination of parental rights and adoption in tribal court or a suspension of parental rights and customary adoption* in tribal court;
- Whether the tribal agency completes the adoption in tribal court or *transfers the case to a regional Department contracted Public Adoption agency*.
- Whether a Wisconsin county was involved with the child/family and;
- Whether there is an agreement with that *county to continue paying a foster care rate* to the family post-termination or suspension of parental rights.

TERMINATION VERSUS SUSPENSION OF PARENTAL RIGHTS

The tribal agency must first decide whether a termination of parental rights and subsequent adoption, or a suspension of parental rights and subsequent customary adoption are most appropriate for the child and family, as this determines options for taking guardianship of the child and which agency may complete the adoption.

If the tribal agency completes a termination of parental rights *for a child in out-of-home care (OHC)*, the tribal court has the option of granting guardianship and legal custody of the child to the Department and transferring the case to the regional Department contracted Public Adoption agency for completion of the adoption.

The Department may be granted guardianship of a child by a tribal court following a termination of parental rights, but may not be granted guardianship of a child by a tribal court following a suspension of parental rights.

If the tribal agency completes a *termination of parental rights for a child who is not in out-of-home care*, the Department will not accept legal custody and guardianship of the child. If the tribal agency completes a *suspension of parental rights*, the Department is not authorized to accept legal custody and guardianship of the child, so the tribal agency must take guardianship of the child for the child to qualify for Adoption Assistance.

TRIBAL AGENCY VERSUS THE DEPARTMENT COMPLETING ADOPTION

If the tribal agency completes a termination of parental rights for a child in out-of-home care, the tribal court may grant guardianship to the Department according to the Department's ability to accept guardianship. The family will be assigned to the appropriate regional Department contracted Public Adoption agency and that agency will work with the family to finalize the adoption in Wisconsin courts.

If guardianship, legal custody, and the case is transferred to Department, the adoption will be completed in state court and the proposed adoptive parent(s) must meet all requirements to adopt under [Ch. 48, Wis. Stats.](#) as well as [Ch. DCF 50](#) and [Ch. DCF 51](#), Wis. Admin. Code. The regional Department contracted Public Adoption agency will complete the necessary work to obtain Adoption Assistance.

If the tribal agency will complete the adoption, the tribal agency or another adoption agency **must** take guardianship of the child for the child to be eligible for Adoption Assistance. Adoption Assistance cannot be completed if the pre-adoptive family has guardianship of the child. The tribal agency is also responsible for the preparation and completion of the Adoption Assistance paperwork to obtain Adoption Assistance prior to adoption finalization. If the tribal agency will complete the adoption in tribal court, the proposed adoptive parent(s) must meet tribal code and any applicable federal law, which may include other applicable preparation requirements for the adoption, such as background checks, licensing, training, etc.

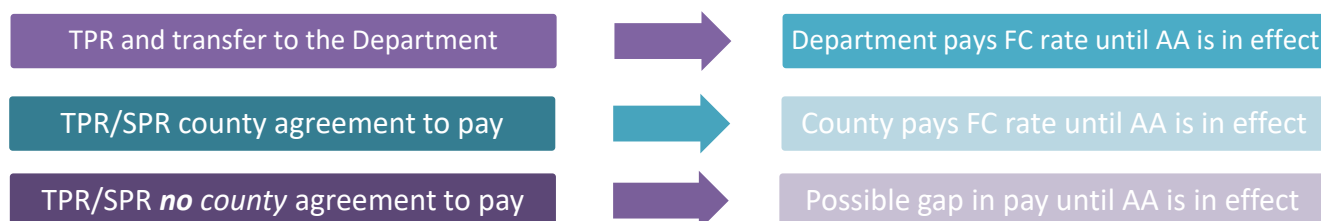
Wisconsin Public Adoption Requirements Include:

- Meet all foster care licensing requirements ([Ch. DCF 56 Admin. Code](#))
- Meet all criminal background check requirements ([Ch. DCF 12 Admin. Code](#))
- Have an approved home study for the purposes of adoption ([Ch. DCF 50 Admin. Code](#))
- Complete pre-adoptive training requirements for first time adoptive parents ([Ch. DCF 51 Admin. Code](#))

If the tribal agency has questions regarding these requirements, they may consult with the appropriate regional Department contracted Public Adoption agency.

TRIBE/COUNTY AGREEMENT TO PAY

Continuation of a foster care rate post-termination of parental rights is not guaranteed or automatic. If a proposed adoptive parent(s) is receiving a foster care (FC) rate from the county, the tribal agency should consider whether there is an agreement with the county in place to continue to pay the foster care rate to the proposed adoptive parent(s) post-termination or suspension of parental rights.

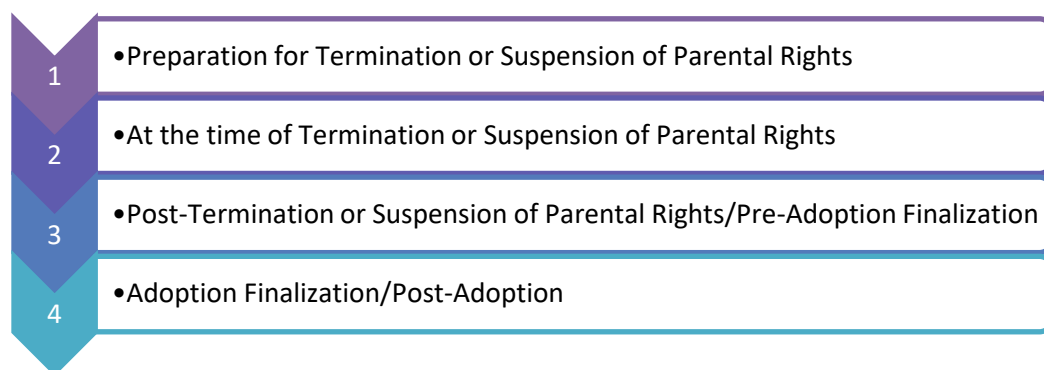


If the tribal agency transfers the case to a regional Department contracted Public Adoption agency and the Department takes guardianship and legal custody of the child, the Department will pay the foster care rate regardless of whether the county has an agreement to pay, and there will be no gap in payment. If the tribal agency keeps the case post-TPR, or is completing a suspension of parental rights, the Department cannot take guardianship and will not pay the foster care rate post-termination or suspension of parental rights.

If the family is eligible to receive an Adoption Assistance subsidy and there is not a tribal/county agreement to continue the foster care rate post-TPR/SPR and pre-adoption, this could result in a gap in payment until the Adoption Assistance Agreement is in effect and an Adoption Assistance subsidy is paid. **In this situation, the tribal agency should contact the Department Adoption Program Supervisor as soon as possible prior to the TPR or SPR hearing to discuss any possible options to avoid the gap in payment.**

Stages of Adoption Assistance

While the procedure to obtain Adoption Assistance is the same for the tribal agency regardless of the situation, depending on the above factors, there may be different actions required at the different stages of adoption:



PREPARATION FOR TERMINATION OR SUSPENSION OF PARENTAL RIGHTS

If the tribal court *terminates* parental rights for a child in out-of-home care and transfers guardianship and legal custody to the Department to complete the adoption, the tribal agency must work with the appropriate regional Department contracted Public Adoption agency to prepare and transfer the case **at the time of the termination of parental rights**. If transferring to the Department, the tribal agency must discuss the transfer with the appropriate regional Department contracted Public Adoption agency **at least three months prior to the TPR**, so the agency may begin working with the proposed adoptive parent(s) to ensure they meet all requirements to adopt under [Ch. 48](#), Wis. Stats., Chs. DCF [50](#) and [51](#) Admin. Code, and any other Wisconsin requirements to adopt. If the tribal agency completes *a suspension of parental rights*, the Department is not authorized to accept legal custody and guardianship of the child, so the tribal agency must take guardianship of the child for the child to qualify for Adoption Assistance.

If the tribal agency completes the adoption, there is no specific preparation for Adoption Assistance that must be completed prior to the termination or suspension of parental rights hearing. Other applicable preparation requirements for adoption, such as background checks, licensing, training, etc. are determined under tribal codes and applicable federal law. If the county does not have an agreement to pay the foster care rate post TPR or SPR, there may be additional preparation to help ensure that there is no gap in payment to the proposed adoptive parent(s). **In this situation, the tribal agency should contact the Department Adoption Program Supervisor as soon as possible prior to the TPR or SPR hearing to discuss any possible options to avoid the gap in pay.**

AT THE TIME OF TERMINATION OR SUSPENSION OF PARENTAL RIGHTS

If the tribal agency transfers the case to the Department, the tribal court will transfer guardianship and legal custody of the child to the Department at the time of the termination of parental rights hearing. The appropriate regional Department contracted Public Adoption agency will then proceed with the adoption and any Adoption Assistance procedure and requirements.

If the tribal court terminates or suspends parental rights and the tribal agency will complete the adoption in tribal court, four things must occur at the time of the termination or suspension of parental rights hearing in order to meet the Adoption Assistance eligibility requirement that the child must be available for adoption:

1. The tribal court must terminate or suspend parental rights.
2. The tribal court must transfer guardianship of the child to the tribal agency (the pre-adoptive parents may not have guardianship).
3. The tribal agency must make a determination that the child cannot or should not return to the home of their parents. This determination will be documented in the Adoption Assistance application.
4. The tribal agency must make an adoptive placement of the child to the prospective adoptive parent(s) home. This will be documented in the Adoption Assistance application.

An agency taking guardianship of a child is different than an agency taking legal custody of the child. The tribal court order must specify that guardianship was transferred to only the tribe (not the pre-adoptive parents).

POST-TERMINATION OR SUSPENSION OF PARENT RIGHTS/PRE-ADOPTION FINALIZATION

If the tribal court transfers guardianship and legal custody of the child to the Department at the time of the termination of parental rights, the Department will make the foster care rate payments and the assigned regional Department contracted Public Adoption agency will complete the Adoption Assistance procedure and requirements. The tribe will not need to complete other work with the case except to provide any necessary documentation or information to the Public Adoption agency. Once the Adoption Assistance process is complete, the Department will begin making Adoption Assistance payments and the regional Department contracted Public Adoption agency will finalize the adoption with the Wisconsin court.

If the tribal agency will complete the adoption in tribal court, it is at this time that the tribe will begin and complete the Adoption Assistance Application process (see procedure section). Adoption Assistance payments may not begin until:

- There is a termination or suspension of parental rights,
- an agency has guardianship of the child,
- a determination has been made that the child cannot or should not return home,
- there is a legal adoptive placement,
- the Adoption Assistance process is complete, and
- the Adoption Assistance Agreement has been signed by the pre-adoptive parents, adoption agency (in this scenario the tribal agency), and the Department Adoption Assistance Eligibility Specialist.

If the county does not have an agreement to pay the foster care rate post-TPR or SPR, there may be additional preparation to possibly avoid a gap in payment to the proposed adoptive parent(s). **In this situation, the tribal agency should contact the Department Adoption Program Supervisor as soon as possible prior to the TPR or SPR hearing to discuss any possible options to avoid the gap in payment.**

ADOPTION FINALIZATION

The Adoption Assistance Agreement process must be completed and an Adoption Assistance Agreement signed by all required parties **prior to the adoption finalization**. If the tribal agency will complete the adoption, it is recommended that the tribal agency waits until the Adoption Assistance Agreement is in effect to schedule the adoption finalization hearing with the tribal court.

Once the tribal or customary adoption is finalized, the tribal agency must submit the adoption or customary adoption order along with the child's full and final name to the Department Adoption Assistance Eligibility Specialist. If the tribal agency transfers guardianship and legal custody to the Department, the regional Department contracted Public adoption agency will complete the adoption and submit necessary documentation to the Department.

Tribal Adoption Scenarios for Adoption Assistance

| Scenarios | -Tribe to TPR (No SPR) -DCF to complete adoption -County is/was paying FC rate | -Tribe to TPR or SPR -Tribe to complete adoption -Tribe/county has agreement for county to continue paying FC rate, or tribe pays FC rate | -Tribe to TPR or SPR -Tribe to complete adoption -Tribe/county has no agreement to continue paying FC rate | -Tribe to TPR or SPR -Tribe to complete adoption -County was not paying FC rate -Tribe may have been paying FC rate |
|--------------------------------|--|---|---|---|
| Preparation for TPR/SPR | -Tribal agency contacts regional Department contracted Public Adoption agency 3 months prior to TPR to begin the home study process -The family must meet all state requirements to adopt | -No specific preparation required by the Department | -Tribal agency will contact the Department Adoption Program Supervisor as soon as possible prior to the TPR or SPR to discuss possible options to avoid a gap in payment | -No specific preparation required by the Department |
| At the Time of TPR/SPR | -Tribal agency completes TPR in tribal court -Tribal agency transfers guardianship and legal custody to the Department -Tribal agency makes determination child cannot return home -Department contracted Public Adoption agency makes adoptive placement with pre-adoptive parents | -Tribal agency completes TPR or SPR in tribal court -Tribal agency takes guardianship of the child -Tribal agency makes determination child cannot return home -Tribal agency makes adoptive placement | -Tribal agency contacts the Department to possibly avoid payment gap -Tribal agency completes TPR or SPR in tribal court -Tribal agency takes guardianship of the child -Tribal agency makes determination child cannot return home -Tribal agency makes adoptive placement | -Tribal agency completes TPR or SPR in tribal court -Tribal agency takes guardianship of the child -Tribal agency makes determination child cannot return home -Tribal agency makes adoptive placement |
| Post TPR/SPR, Pre Finalization | -Department contracted Public Adoption agency takes over case management and the Department will pay the FC rate -Department contracted Public Adoption agency completes the AA process | -Tribal agency completes the full AA process, including having a signed AA Agreement PRIOR TO ADOPTION FINALIZATION -County pays FC rate until AA is in effect | -Tribal agency contacts the Department to possibly avoid payment gap -Tribal agency completes the full AA process, including having a signed AA Agreement PRIOR TO ADOPTION FINALIZATION -Department pays AA when AA process complete | -Tribal agency completes the full AA process, including having a signed AA Agreement PRIOR TO ADOPTION FINALIZATION -Department pays AA when AA process complete |
| Adoption Finalization | -Department contracted Public Adoption agency completes the adoption finalization in state court | -Tribal agency completes adoption finalization in tribal court and send finalization documents to the Department | -Tribal agency completes adoption finalization in tribal court and send adoption finalization documents to the Department | -Tribal agency completes adoption finalization in tribal court and send adoption finalization documents to the Department |

Adoption Assistance Procedure

The following procedure is required to obtain Adoption Assistance prior to the finalization of an adoption or customary adoption.

There are three main steps to completing the Adoption Assistance process:

1. Adoption Assistance [Rate Determination](#)
2. Adoption Assistance [Agreement Approval](#)
3. Adoption Finalization and [Post Adoption](#)

If the tribal agency will transfer guardianship and legal custody of a child placed in out-of-home care to DCF following a termination of parental rights, the Public Adoption Agency will complete the Adoption Assistance process.

STEP 1: ADOPTION ASSISTANCE RATE DETERMINATION

The Adoption Assistance Rate Determination is completed by submitting the first four sections of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) to the Department Adoption Assistance Eligibility Specialist for review and approval.

Timing:

The tribal agency completes the Adoption Assistance Rate Determination post-TPR or SPR, but prior to the adoption finalization. If the county does not have an agreement to pay the foster care rate post-TPR or SPR, there may be additional preparation to possibly avoid a gap in payment to the proposed adoptive parent(s). **In this situation, the tribal agency should contact the Department Adoption Program Supervisor as soon as possible prior to the TPR or SPR hearing to discuss options to avoid the gap in payment.**

The tribal agency must complete the Adoption Assistance Rate Determination and receive approval of the rate from the Department Adoption Assistance Eligibility Specialist **prior to completing and submitting documentation for the Adoption Assistance Agreement Approval.**

Preparation:

Prior to submitting the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) to the Department Adoption Assistance Eligibility Coordinator, the tribal agency must discuss Adoption Assistance eligibility with the proposed adoptive parent(s). The child may or may not be eligible for an Adoption Assistance subsidy depending on the child's special needs (which includes meeting the [Ch. 48](#), Wis. Stats. definition of an Indian child) or high-risk of special needs and other eligibility requirements, which are listed in the Adoption Assistance Eligibility section of this guide.

Preparation Summary:

1. Discuss AA eligibility with family
2. Complete the CANS and rate setting
OR complete documentation of high risk status
3. Discuss proposed rate with family

If the child qualifies for Adoption Assistance due to being at high-risk of developing special needs, there will be no Adoption Assistance subsidy, but the child would be eligible for Medical Assistance if all other eligibility requirements are met. The Adoption Assistance process must be completed in order for the child to receive Medical Assistance. As a part of Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E), the tribal agency must attach the Determination of “High Risk” Status for Adoption Assistance (DCF-F-5284-E) form. This form requires that the tribe work with the child’s doctor to verify the child is at high-risk, or attach documentation that verifies the child meets the “at high-risk” status.

If the child qualifies for Adoption Assistance with a subsidy, a rate must be determined and submitted on the Uniform Foster Care Rate Setting (DCF-F-CFS0834) form attached to the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E). The tribal agency will determine the Adoption Assistance rate by following the Uniform Foster Care Rate Setting Policy. The Adoption Assistance rate may not be higher than the last foster care rate. If the family was receiving a Kinship Care rate, this will not affect the Adoption Assistance rate.

The basic portion of the rate is determined through the biennial state budget and is listed on the Uniform Foster Care Rate Setting form (DCF-F-CFS0834).

The supplemental portion of the rate is determined by completing a Child and Adolescent Needs and Strengths (CANS) tool for the child. A CANS must be completed for the child for Adoption Assistance, as the algorithm to calculate the supplemental portion of the Adoption Assistance rate is different than the algorithm for the foster care rate.

The tribal agency caseworker must be certified to complete the CANS for the child. More information about becoming CANS certified can be found at <https://wcwpds.wisc.edu/web-based-courses/cans-tool-training/>. If the tribal agency does not have a caseworker who is certified to complete the CANS, the tribal agency may request a regional Public Adoption agency to complete the CANS. The Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) requires CANS results pages to be attached. The required form depends on the child’s age: Child and Adolescent Needs and Strengths (CANS) Results 0-5 (DCF-F-2612) and Child and Adolescent Needs and Strengths (CANS) Results 5-21 (DCF-F-2611).

The CANS must be completed for the child specifically for Adoption Assistance, as the algorithm to calculate the supplemental portion of the Adoption Assistance rate is different than the algorithm for the foster care rate.

The CANS for the last foster care rate determination may not be used.

Finally, the exceptional portion of the rate is determined based on the criteria detailed in the Uniform Foster Care Rate Setting Policy.

Once the tribal agency has determined the Adoption Assistance rate, they should discuss the rate with the proposed adoptive parent(s). The proposed adoptive parent(s) may not agree with or understand the rate. If the proposed adoptive parent(s) were receiving a foster care rate from the county, the Adoption Assistance rate may be lower. The tribal agency should be prepared to discuss this with the proposed adoptive parent(s).

Submission:

Once preparation for the request for the Adoption Assistance Rate Determination is complete, the tribal agency must complete sections 1-4 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions ([DCF-F-5159-E](#)) and all required documents (detailed below) to submit to the Department Adoption Assistance Eligibility Specialist based on the child's eligibility for an Adoption Assistance subsidy. Depending on whether the child is eligible for a subsidy or is at high-risk, the tribal agency must submit one or more of the following, which is described in the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions ([DCF-F-5159-E](#)):

- CANS Results 0-5 ([DCF-F-2612-E](#)) **OR** CANS Results 5-21 ([DCF-F-2611-E](#))
- Foster Care Uniform Rate Setting ([DCF-F-CFS0834](#))
- Determination of "High Risk" Status for Adoption Assistance ([DCF-F-5284-E](#)) and any attachments required by this form

Review and Approval:

The Department Adoption Assistance Eligibility Specialist will review the submitted Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions ([DCF-F-5159-E](#)) and make a decision based on the Uniform Foster Care Rate Setting Policy to approve or deny the proposed Adoption Assistance rate, and return the form with the decision to the tribal agency.

The Department Adoption Assistance Eligibility Specialist may deny the proposed rate if it is incorrect or if the child does not meet the eligibility requirements for Adoption Assistance. If the rate was incorrectly calculated, the tribal agency may resubmit the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions ([DCF-F-5159-E](#)) with corrected rate calculations for review.

STEP 2: ADOPTION ASSISTANCE AGREEMENT APPROVAL

Once an Adoption Assistance Rate Determination has been approved by the Department Adoption Assistance Eligibility Specialist, the tribal agency may proceed with sections 6, 7, and 8 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions ([DCF-F-5159-E](#)) to approve the Adoption Assistance Agreement.

Timing:

The tribal agency may complete Adoption Assistance Agreement Approval documentation only after receiving approval of the Adoption Assistance Rate Determination.

The Adoption Assistance Agreement Approval must be completed, reviewed, and approved along with an Adoption Assistance Agreement signed by the Department Adoption Assistance Eligibility Specialist and all required parties to the agreement **prior** to adoption or customary adoption finalization.

The Department recommends that the tribal agency waits to schedule the adoption hearing until the Adoption Assistance Agreement is in effect—the Adoption Assistance Agreement must be in effect **PRIOR** to adoption finalization.

Preparation:

Once the tribal agency has received the approval of the Adoption Assistance Rate by the Department Adoption Assistance Eligibility Specialist (section 5 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E)), the tribal agency may prepare sections 6, 7, and 8 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) and any additional required documentation. Section 6 describes the review and appeal rights that the proposed adoptive parents have regarding Adoption Assistance eligibility and the Adoption Assistance rate. The tribal agency must review this section with the proposed adoptive parents. Section 7 is the agreement of the proposed adoptive parent(s) to the Adoption Assistance Rate. The tribal agency should present the approved rate to the proposed adoptive parent(s) and ask them to sign section 7 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E).

If the proposed adoptive parent(s) do not agree to the rate, they should not sign section 7 of the form, and the tribal agency should discuss the rate with the proposed adoptive parent(s) and how the amount was calculated. The proposed adoptive parent(s) may request a review of the rate or appeal the rate before the adoption or customary adoption is finalized, except in specific limited circumstances described in [Ch. DCF 50.17 Admin. Code](#).

If the family does not agree with the rate, the tribal agency should review the rate and any information about the child and family circumstances that may have impacted the rate determination. If the tribal agency determines a new rate should be proposed, the tribal agency may resubmit an Adoption Assistance Rate Determination to the Department Adoption Assistance Eligibility Specialist with the modified rate.

If the proposed adoptive parent(s) wish to request a review of the rate, they should not sign section 7 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) form and should follow the request for review instructions within section 6 before the adoption or customary adoption is finalized, except in specific limited circumstances described in [Ch. DCF 50.17 Admin. Code](#).

If the proposed adoptive parent(s) wish to appeal the rate, they should not sign section 7 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) form and should follow the appeal instructions within section 6 before the adoption or customary adoption is finalized, except in specific limited circumstances described in [Ch. DCF 50.17 Admin. Code](#).

If the proposed adoptive parent(s) agree to the Adoption Assistance rate, the proposed adoptive parent(s) should sign section 7 and the tribal agency may continue to section 8 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E), which includes completing and attaching several additional documents:

- Order for the Termination or Suspension of Parental Rights (court order specific to each tribe). This order must terminate or suspend rights and transfer guardianship of the child to an adoption agency (which includes a tribal agency).

- Health Insurance Information Form (F-10115), if applicable. This form provides information about the proposed adoptive parent(s) health insurance if the child is to be added to their insurance post-adoption.
- The Adoption Assistance Agreement (DCF-F-CFS0074-E) is an agreement between the Department of Children and Families and the adoptive or proposed adoptive parent(s). It sets the amount of assistance provided, the responsibilities of adoptive parent, the responsibilities of the Department, and the circumstances when Adoption Assistance may be amended, terminated, or suspended. The tribal agency should thoroughly review this Agreement and the requirements of the proposed adoptive parent(s) with the proposed adoptive parent(s) at the time of signing. The tribal agency and proposed adoptive parent(s) can sign the Adoption Assistance Agreement once the Adoption Assistance rate has been approved and the proposed adoptive parent(s) agree to the rate in section 7 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E).

It is recommended that the tribal agency keeps a copy of all documentation submitted with each part of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E). The Department may request additional copies of this information as needed.

Submission:

The tribal agency must complete sections 6, 7, and 8 of the Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) and attach all required documents (see above section) for submission to the Department Adoption Assistance Eligibility Specialist. The Department recommends the tribal agency waits to schedule the adoption hearing with the tribal court until the Adoption Assistance Agreement is approved and in effect. If the tribal court does not wait for the Adoption Assistance Agreement to be approved, the tribal agency must submit the complete Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E) and all required documents 60 days prior to the adoption finalization. If there is missing information, the tribal agency must get complete documentation to the Department Adoption Assistance Eligibility Specialist as soon as possible to ensure the Adoption Assistance Agreement is approved and signed **prior** to adoption finalization.

Review and Approval:

The Department Adoption Assistance Eligibility Specialist will review the submitted Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions (DCF-F-5159-E). If additional information is needed, the Department Adoption Assistance Eligibility Specialist will contact the tribal agency. Once completed information is received and all requirements met, the Department Adoption Assistance Eligibility Specialist will sign the Adoption Assistance Agreement. The Department Adoption Assistance Eligibility Specialist will mail the signed copy to the proposed adoptive parent(s) and tribal agency.

The Department Adoption Assistance Eligibility Specialist must review, approve, and sign the Adoption Assistance Agreement **PRIOR** to the adoption finalization. If the adoption is finalized prior to an Adoption Assistance Agreement being fully signed by all parties and properly approved, Adoption Assistance may not be provided, except in specific limited circumstances described in Ch. DCF 50.17 Admin. Code.

The proposed adoptive parent(s) must adhere to the notification requirements agreed to under the Adoption Assistance Agreement.

STEP 3: ADOPTION FINALIZATION AND POST ADOPTION

Once the Adoption Assistance has been approved and the Adoption Assistance Agreement signed by the proposed adoptive parent(s), adoption agency (may be a tribal agency), and Department Adoption Assistance Eligibility Specialist, the adoption may be finalized. After the adoption finalization, the tribal agency must submit the adoption or customary adoption order along with the child's full and final name to the Department Adoption Assistance Eligibility Specialist.

The tribal agency **MUST** send a copy of the adoption or customary adoption order after adoption finalization.

The adoptive parent(s) must adhere to the notification requirements agreed to under the Adoption Assistance Agreement.

One Time Reimbursement of Adoption Expenses:

The adoptive parent(s) may submit a request for a One Time Reimbursement of Adoption Expenses after the adoption is finalized but within two years from the date of adoption finalization. Reimbursement for reasonable and necessary adoption fees, court costs, attorney fees and other expenses directly related to the legal adoption and which are not incurred in violation of state or federal law may be requested. Such costs may be reimbursed up to a maximum of \$2,000. For more information please refer to Reimbursable Expenses When Adopting Children with Special Care Needs which can be found at:

<https://dcf.wisconsin.gov/files/publications/pdf/0747.pdf>

Post Adoption Resource Centers:

Adoptive parents may access the Wisconsin Post Adoption Resource Centers (PARC) in each region for resources and assistance related to their adoption. Each regional Post Adoption Resource Center serves families in their area by:

- Providing education, support activities and services to adoptive families.
- Improving community awareness of adoption, and promoting a positive image of adoption.
- Establishing collaborative efforts among public and private organizations and the general public
- Provides referrals for services for adoptive families, including:
 - Day care and after school care
 - Legal help
 - Family counseling and support groups related to adoption
 - Access to MA service providers
 - Planning for the transition of an adopted child to adulthood
 - Mental Health related issues

Contact information for each PARC may be found here: <https://dcf.wisconsin.gov/map/adoption/parc>.

Adoption Assistance Amendments:

Adoptive parents may request a time-limited amendment to their child's monthly adoption assistance subsidy if the adoptive parents believe the child's special needs have increased since the time of adoption. A time-limited amendment may be granted according to [Ch. DCF 50 Admin. Code](#) if all of the following criteria are met:

- The adoptive parents have a signed Wisconsin Adoption Assistance Agreement in effect for their child,
- It has been at least one year since the adoption was finalized or since the last amendment request was denied,
- The monthly adoption assistance subsidy is less than \$2,000,
- There is no final substantiation finding that the adoptive parent abused or neglected the child,
- The child's special needs have increased since the time of adoption, and
- The child is receiving less than the maximum allowable subsidy for special needs. The Amendment Specialist can advise whether this is the case.

More information can be found in the Adoption Assistance Amendment Information brochure:

<https://dcf.wisconsin.gov/files/publications/pdf/4063.pdf>

Adoption Assistance Rate Determination and Application for Tribal or Customary Adoptions

Use of form: This form is required to submit to the Department of Children and Families (DCF) Adoption Assistance Eligibility Specialist by a tribal agency when applying for Adoption Assistance while facilitating an adoption or customary adoption through tribal court. Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04(1)m], Wisconsin Statutes. Provision of your social security number (SSN) is voluntary; not providing it could result in an information processing delay.

Instructions: Complete this application in two parts. First complete sections 1-4. Submit those completed sections and applicable attachments to the DCF AA Eligibility Specialist. The DCF AA Eligibility Specialist will return the form after reviewing and making a decision in section 5. Once approved, complete sections 6, 7 and 8. Return the complete form and all applicable attachments to the DCF AA Eligibility Specialist for approval of the Adoption Assistance Agreement. Forms may be found at <https://dcf.wisconsin.gov/forms>

SECTION 1: BASIC INFORMATION

Tribal Agency

| | |
|----------------------------------|--|
| Name – Tribal Worker | Name – Tribal Agency Oneida Nation Family Services-Indian Child Welfare |
| Telephone Number – Tribal Worker | Email Address—Tribal Worker |

Pre-Adoptive Child

| | | |
|---|-------------------|---|
| Name – Child (Last, First, Middle) | | Birthdate – Child(mm/dd/yyyy) |
| Address – Child (Street, City, State, Zip Code) | | Sex– Child <input type="checkbox"/> M <input type="checkbox"/> F |
| Race – Child | Ethnicity – Child | Social Security Number – Child |

Pre-Adoptive Parent 1

| | | |
|---|----------------------|-----------------------------------|
| Name – Pre-Adoptive Parent 1 (Last, First, MI) | | Birthdate – Parent 1 (mm/dd/yyyy) |
| Address – Parent 1 (Street, City, State, Zip Code) <input type="checkbox"/> Same as Child | | Telephone Number – Parent 1 |
| Race – Parent 1 | Ethnicity – Parent 1 | |

Pre-Adoptive Parent 2

| | | |
|---|----------------------|-----------------------------------|
| Name – Pre-Adoptive Parent 2 (Last, First, MI) | | Birthdate – Parent 2 (mm/dd/yyyy) |
| Address – Parent 2 (Street, City, State, Zip Code) <input type="checkbox"/> Same as Child | | Telephone Number – Parent 2 |
| Race – Parent 2 | Ethnicity – Parent 2 | |

Adoption Information

| | | |
|--|--|--|
| Type of Adoption: <input type="checkbox"/> Tribal Adoption (Termination of Parental Rights (TPR)) <input type="checkbox"/> Customary Adoption (Suspension of Parental Rights (SPR)) | Tribal Court Terminating/Suspending Rights and Completing Adoption: | Anticipated Adoption Date (mm/dd/yyyy): |
| County Currently Paying Foster Care Rate: <input type="checkbox"/> Yes <input type="checkbox"/> No | If Yes, County Has Agreement to Continue Paying Foster Care Rate post TPR or SPR: <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Termination/Suspension of Parental Rights – Birth Mother: <input type="checkbox"/> Termination of Parental Rights Date (mm/dd/yyyy): <input type="checkbox"/> Suspension of Parental Rights Date (mm/dd/yyyy): <input type="checkbox"/> Has not occurred—scheduled date (required): | | Termination/Suspension of Parental Rights – Birth Father: <input type="checkbox"/> Termination of Parental Rights Date (mm/dd/yyyy): <input type="checkbox"/> Suspension of Parental Rights Date (mm/dd/yyyy): <input type="checkbox"/> Has not occurred—scheduled date (required): |

SECTION 2: ADOPTION ASSISTANCE RATE ELIGIBILITY

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Does the child meet eligibility criteria for an Adoption Assistance Subsidy? **If No, skip to Section 4: High Risk Determination**

☐ **Yes**, the child meets criteria for a subsidy (only one required, check all that apply):

- ☐ The child is 10 years of age or older.
- ☐ The child is a member of a sibling group of 3 or more children that must be placed together.
- ☐ The child exhibits exceptional needs characteristics judged to be moderate or intensive under Ch. DCF 50 Admin Code.
- ☐ The child belongs to a minority race and cannot be readily placed due to a lack of appropriate placement resources.
- ☐ The child is an Indian child:
 - ☐ The child is a member of an Indian tribe **OR**
 - ☐ The child is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

☐ **No**, the child is **only** at high risk of developing a moderate or intensive level of exceptional adoption needs under s. DCF 56.11(3).

SECTION 3: ADOPTION ASSISTANCE SUBSIDY RATE DETERMINATION

If No in Section 2, skip Section 3 and proceed to Section 4: High Risk Determination

I hereby acknowledge that the Adoption Assistance Rate for the above child has been determined according to the Department's Uniform Foster Care Rate Setting Policy. The following are attached and I approve the proposed rate for the Adoption Assistance Initial Rate Determination for the above proposed adoptive parents:

- ☐ CANS Results 0-5 (DCF-F-2612-E) **OR** CANS Results 5-21 (DCF-F-2611-E)
- ☐ Foster Care Uniform Rate Setting (DCF-F-CFS834)

SIGNATURE – Representative of the Tribal Agency

Date Signed

Skip to Section 5: Department Rate/High Risk Approval

SECTION 4: HIGH RISK DETERMINATION

If Yes in Section 2 and Section 3 is completed, skip to Section 5: Department Rate/High Risk Approval

I hereby acknowledge that the High Risk Determination for the above child has been completed and the following is attached:

- ☐ Determination of "High Risk" Status for Adoption Assistance (DCF-F-5284-E)
- ☐ Applicable supporting documentation as required on the Determination of "High Risk" Status for Adoption Assistance form

SIGNATURE – Representative of the Tribal Agency

Date Signed

SECTION 5: DEPARTMENT ELIGIBILITY AND RATE/HIGH RISK APPROVAL

This form must now be submitted to the DCF AA Eligibility Specialist for review and decision prior to moving on to the next Sections of this form. Please send this form with the above completed and applicable attachments to the Department of Children and Families Adoption Assistance Eligibility Coordinator by mail or email:

Mailing Address: 125 S Webster Street, P10, PO Box 8916, Madison, WI 53703

Email: AAEligibility@wisconsin.gov

To be completed by the Department of Children and Families Adoption Assistance Eligibility Coordinator:

The above application for the determination of the Adoption Assistance rate is hereby:

- ☐ Approved Amount Approved: \$ ☐ High Risk only, no subsidy
- ☐ Not Approved Reason Not Approved:

SIGNATURE – DCF AA Eligibility Specialist

Date Signed

ATTENTION: DO NOT CONTINUE TO SECTION 6 UNTIL THE DCF AA ELIGIBILITY SPECIALIST HAS RETURNED THIS FORM WITH AN APPROVED RATE OR HIGH RISK DETERMINATION. ONCE RETURNED AND APPROVED, THE TRIBAL AGENCY MAY PROCEED WITH SECTION 6 ON THE NEXT PAGE.

SECTION 6: REVIEW AND APPEAL RIGHTS

The pre-adoptive parent(s) must review this section to understand review and appeal rights for the decision regarding the Adoption Assistance eligibility/rate decision in section 5.

If you are dissatisfied with the decision regarding your application for Adoption Assistance, you have the right to request a review or to appeal the decision **PRIOR TO THE ADOPTION FINALIZATION**, except in specific, limited, extenuating circumstances under Ch. DCF 50.17(3) Admin Code.

You may request a review or an appeal of the denial of eligibility for Adoption Assistance or the amount of the monthly adoption assistance payment the Department has offered.

To request a **review**, write to the Division Administrator, Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

To request an **appeal hearing** before the division of hearings and appeals, write to the Division of Hearings and Appeals, P.O. Box 7875, Madison WI 53707

We (I) understand my review and appeal rights as stated above.

INITIAL –Adoptive Parent 1

Date

INITIAL –Adoptive Parent 2

Date

SECTION 7: PARENT AGREEMENT TO THE RATE

Section 7 must be reviewed and signed by the pre-adoptive parent(s) prior to submission for approval (**PLEASE NOTE THIS IS NOT THE ADOPTION ASSISTANCE AGREEMENT**):

The DCF AA Eligibility Specialist has reviewed and approved your Adoption Assistance Rate Determination at the following rate:

Amount Approved: \$ _____ ☐ High Risk only, no subsidy

We (I) understand and agree that a determination of the eligibility for Adoption Assistance at the above rate will be made by the Department of Children and Families, following the filing of this application and submission of this form and applicable documents, based on information currently available regarding the child, and criteria pursuant to Ch. DCF 50 Admin. Code.

SIGNATURE –Adoptive Parent 1

Date
Signed

SIGNATURE –Adoptive Parent 2

Date
Signed

SECTION 8: ADDITIONAL ELIGIBILITY INFORMATION

Section 8 must be completed by the tribal agency:

The tribal agency has determined that the child cannot or should not return to the child's parents for the following reasons:

The tribal agency has made an adoptive placement of the child following the termination or suspension of parental rights:

☐ Yes. Date of adoptive placement: _____ ☐ No. Explanation: _____

The tribal agency has guardianship of the child post termination or suspension of parental rights:

☐ Yes. Date assumed guardianship: _____ ☐ No. Explanation: _____

Did the agency inform the family of the adoption assistance program and ask if the proposed adoptive family is willing to adopt without

adoption assistance? A request for adoption assistance shall not be a basis for removing a child from an adoptive home³⁷ of 104

☐ Yes. ☐ No. Explanation:

Will the adoptive parent(s) add the child to their private health insurance plan:

☐ Yes. If yes, the Health Insurance Information Form (F-10115) **MUST** be included with this form. ☐ No.

Did the agency make reasonable efforts to place with the best available family without adoption assistance (placement for adoption)?

☐ Yes, efforts were made per Ch. 50.09(2)(a) Admin. Code by (check all that apply):

- ☐ Considering a number of suitable families, including relatives.
- ☐ Contacting other adoption agencies, photo-listed the child, and worked with the adoption information exchange.

Registration Date:

☐ No, an exception to making efforts because (check all that apply):

- ☐ The child has developed significant emotional ties with the child's foster family and all of the following conditions are met:
 - The child identifies himself or herself as a member of the family.
 - The child is regarded by the foster parents, foster siblings, community and school as belonging to the family.
 - The child has diminished probability of forming new attachments.
- ☐ The proposed adoptive parents request adoption assistance for a child placed in a proposed adoptive parents' home for adoption without adoption assistance if the child demonstrates a special need before the adoption is finalized.

The tribal agency has attached the following forms:

- ☐ Order for Termination or Suspension of Parental Rights
- ☐ Health Insurance Information Form (F-10115), if applicable as noted above
- ☐ Adoption Assistance Agreement (DCF-F-CFS0074-E) signed by the proposed adoptive parent(s) and the Adoption Agency

Tribal Agency Supervisor

I have reviewed the information on this form and confirm that it accurately reflects the child and family identified as it relates to Adoption Assistance. All applicable documents are attached.

SIGNATURE – Tribal Agency Supervisor

Date

SECTION 9: DEPARTMENT APPROVAL

This form must now be submitted to the DCF AA Eligibility Specialist for review and approval of the Adoption Assistance Agreement. Please send this form with the above completed and applicable attachments to the Department of Children and Families Adoption Assistance Eligibility Specialist by mail or email:

Mailing Address: 125 S Webster Street, P10, PO Box 8916, Madison, WI 53703

Email: AAEligibility@wisconsin.gov

To be completed by the Department of Children and Families Adoption Assistance Eligibility Specialist:

In compliance with applicable state and federal law, I authorize Adoption Assistance in the amount of \$ _____ per month. It shall be effective _____ and I hereby verify that the Adoption Assistance rate does not exceed the last foster care monthly rate paid, if applicable, of \$ _____. I have attached the signed Adoption Assistance Agreement. The family may proceed with adoption/customary adoption. Please send a copy of the finalized Adoption/Customary Adoption Order with the adoption date and the child's full adopted name.

SIGNATURE – DCF AA Eligibility Specialist

Date

ATTENTION: AFTER THE DCF AA ELIGIBILITY SPECIALIST HAS APPROVED THIS FORM, SIGNED THE ADOPTION ASSISTANCE AGREEMENT, AND THE CHILD HAS BEEN ADOPTED, THE TRIBAL AGENCY MUST PROVIDE THE SIGNED ADOPTION ORDER WITH THE DATE OF FINALIZATION AND THE CHILD'S FULL ADOPTIVE NAME TO THE DCF AA ELIGIBILITY SPECIALIST.

ADOPTION ASSISTANCE AGREEMENT

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04(1)(m), Wisconsin Statutes].

The following agreement has been entered into by and between the Wisconsin Department of Children and Families, Division of Safety and Permanence (hereinafter called the "department"), and

Name – Adoptive Parent 1 (First, Middle Initial, Last)

Name – Adoptive Parent 2 (First, Middle Initial, Last)

(hereinafter called the "adoptive parent(s)"), for the purpose of facilitating the legal adoption of

Birth Name – Child (First, Middle Initial, Last) (hereinafter called the "adopted person"),

born on _____ and to aid the adoptive family in providing proper care for the adopted person.
(mm/dd/yyyy)

- ☐ This document is the initial adoption assistance agreement. The adoptive parent(s) agree that he / she / they intend to adopt the child named above and have signed this document prior to finalization of the adoption for the purposes of receiving adoption assistance payments and / or services for the adopted person under Titles XIX and XX of the Social Security Act from the time of adoptive placement.
- ☐ This document replaces the initial adoption assistance agreement signed. It represents a redetermination of the adoption assistance rate. The adoptive parent(s) agree that he / she / they intend to adopt the child named above and have signed this document prior to finalization of the adoption for the purposes of receiving adoption assistance payments and / or services for the adopted person under Titles XIX and XX of the Social Security Act from the time of adoptive placement.
- ☐ This document is the initial adoption assistance agreement. The finalization of the adoption for the child named above has already occurred. The Department of Hearings and Appeals has ordered the department to provide adoption assistance payments and / or services for the adopted person under Titles XIX and XX of the Social Security Act from the date indicated on the Order. A copy of the Order issued by the Department of Hearings and Appeals is attached to this agreement.
- ☐ This document replaces the initial adoption assistance agreement. The finalization of the adoption for the child named above has already occurred. The Department of Hearings and Appeals has ordered the department to provide an adoption assistance payment other than the amount indicated on the original Adoption Assistance Agreement from the date indicated on the Order. A copy of the Order issued by the Department of Hearings and Appeals is attached to this agreement.

PROVISIONS OF AGREEMENT

I. Assistance

A. Monthly Adoption Assistance

The amount of the monthly adoption assistance shall total \$ _____ per month.

The amount of this monthly adoption assistance is based on the needs of the adopted person and the circumstances of the adoptive parent(s) and has been determined by mutual agreement between the adoptive parent(s) and the department. The amount of adoption assistance shall not exceed the foster care maintenance payment for the adopted person if he / she was in a foster home in the state of Wisconsin. Adjustments in the monthly adoption assistance amount may be made with the concurrence of the adoptive parent(s) based on the needs of the child, or changes in the maximum allowable monthly adoption assistance. Documentation of changes in the adopted person's needs or family circumstances may be required. If it is determined by the department that an overpayment has been made to the adoptive parent(s), the department shall have authority to collect the overpayment through a mutual agreement with the adoptive parent(s). If this results in an unsuccessful collection, the department shall have authority to pursue other collection efforts.

B. Medical Care

1. Medical benefits as provided under Title XIX of the Social Security Act (Medicaid) will be available to the adopted person in accordance with the procedures of the state in which the adopted person resides. The benefits provided through Medicaid will vary from state to state and are subject to change based on federal and state legislation. If the adopted person is not eligible for Medicaid in the state of residence, Wisconsin will provide Medicaid.
2. Medicaid provides benefits when other insurance does not provide coverage. Documentation of changes in health and other insurance may be required.

C. Nonrecurring Adoption Expenses

The department agrees to reimburse the adoptive parent(s) for expenses that are reasonable and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses must: 1) directly relate to the legal adoption; 2) not be in violation of state or federal law; and, 3) not have been reimbursed from other sources of funds. Reimbursement may only be requested after adoption finalization. The request for reimbursement must be submitted within two years after the date of adoption finalization.

D. Social Services

Social services provided under Title XX of the Social Security Act will be available to the adopted person in accordance with the procedures of the state in which the adopted person resides.

E. Moving Out-Of-State

The adoptive parent(s) should notify the department of their new address. Any monthly adoption assistance will continue from the State of Wisconsin. The department will refer the adopted person to the new residence state for eligibility to receive Medicaid under Title XIX of the Social Security Act. The interests of the adopted person are protected through Wisconsin's participation in the Interstate Compact on Adoption and Medical Assistance. If a needed service specified in the agreement is not available in the new state or service area of residence, the State of Wisconsin remains financially responsible for providing the specified service(s) while the adoption assistance agreement is in effect.

II. Notification of Change**A. It is the responsibility of the adoptive parent(s) to immediately notify the department for the duration of this agreement of the following:**

- | | |
|--|---|
| 1. Change in family's address | 6. Date of death of adopted person |
| 2. Change in the adopted person's legal guardian | 7. Date of completion of high school |
| 3. Date adopted person enters military | 8. Change in health insurance benefits |
| 4. Date of marriage of adopted person | 9. Date adoptive parents are no longer supporting adopted person or are no longer legally responsible to support adopted person |
| 5. Date adopted person is no longer in the home | |

Notification of any of the above circumstances should be provided to the department at:

Adoption Assistance Accountant
Division of Safety and Permanence
P.O. Box 8916
Madison, WI 53708-8916

Toll Free Telephone Number: (866) 666-5532

Fax Number: (608) 422-7170

- B.** Biannually, the department shall send written notification to adoptive parent(s) referencing the post-adoption responsibilities specified in II. A. Notification shall include families who have moved out-of-state.
- C.** The department shall send written notification to adoptive parent(s) of changes in adoption assistance or other program requirements implemented as a result of state or federal law or policy change.

III. Discontinuance

Discontinuance shall occur in any of the following circumstances:

- A.** This agreement shall discontinue upon the conclusion of the terms of this agreement.
- B.** This agreement shall discontinue upon request of the adoptive parent(s).
- C.** Adoption assistance shall discontinue when the adopted person reaches the age of 18, with the following exceptions:
- Adoption assistance may continue up to age 19 if the adopted person is a full-time student in high school or the equivalent.
 - Adoption assistance may continue up to age 21 if **all** of the following is met: a) the adopted person is a full-time student in high school or the equivalent; b) the department determines that the adopted person has a mental or physical handicap which warrants the continuation of assistance under 42 USC 673; c) the adopted person is not eligible for other benefits (e.g., SSI, SSA, VA); and, d) the adopted person otherwise lacks adequate resources to continue in high school or the equivalent.
- D.** This agreement shall discontinue upon the adopted person's death, marriage, or entry into military service.

- E. This agreement shall discontinue upon the death of the adoptive parent in a single parent family or the death of both adoptive parents in a two parent family.
- F. This agreement shall discontinue at the cessation of legal responsibility of the adoptive parent(s) for the adopted person.
- G. This agreement shall discontinue if the department determines that the adopted person is no longer receiving support from the adoptive parent(s).
- H. This agreement shall discontinue if the agency having guardianship of the child removes the prospective adopted person from the home of the prospective adoptive parent(s) prior to the finalization of the adoption.
- I. This agreement shall discontinue if adoption finalization does not occur prior to the child reaching the age of 18.

IV. Appeal

The adoptive parent(s) may appeal the department's decision to change, reduce or terminate adoption assistance in accordance with rules and procedures of the State's fair hearing and appeal process. Send a request for review of a decision to: Administrator, Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916

A request for a fair hearing should be addressed to: Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875

V. Special Provisions

This agreement shall remain in effect regardless of the state in which the adoptive parent(s) reside at any given time.

Under no circumstances shall the department use the provision of adoption assistance as a cause for monitoring family functioning after the adoption is finalized.

The parties to this agreement certify that the information provided is true and complete to the best of their knowledge and belief. The adoptive parent(s) understand that he / she / they may be asked to provide proof of eligibility for benefits and that giving false information may result in discontinuance of adoption assistance and / or prosecution for fraud.

The adoptive parent(s) confirm that he / she / they have read and understand the terms of this agreement.

Initials of adoptive parent(s)

| | | | |
|--|-------------|---|-------------|
| SIGNATURE – Adoptive Parent 1 | Date Signed | SIGNATURE – Adoptive Parent 2 | Date Signed |
| SIGNATURE – Agency Representative | Date Signed | SIGNATURE – Authorized Department Representative | Date Signed |

The name(s) / address of the parties to this agreement shall be released to the Foster Care and Adoption Resource Center in Wisconsin, Adoption Resources of Wisconsin and to the appropriate post adoption resource center in Wisconsin. This will allow the party / parties to this agreement to receive notification of new programs, available training, upcoming events or information about post placement services. (Names / addresses **will not** be released to any other source.) **If this is not agreeable, the party / parties to the agreement must sign here.** _____

The agency representative provided an original signed copy of this agreement to the adoptive parent(s) on _____.
(mm/dd/yyyy)



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: September 2, 2020
- 2) Contact Person(s): Tina Jorgensen
 Dept: GSD-Economic Support
 Phone Number: 490-3904 Email: tjorgens@oneidanation.org
- 3) Agenda Title: Community Support Law Amendment
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Economic Support is requesting amendments to the Community Support Law which will expand assistance for tribal members.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Memo reviewed by M Gordon
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Community Support Law
- 6) Please list all other departments or person(s) you have brought your concern to:
Michelle Gordon, Attorney, Debbie Thundercloud, General Manager
- 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Digitally signed by Tina Jorgensen, MS
 Date: 2020.09.02 11:10:54 -05'00'

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

MEMORANDUM:

To: Tina Jorgensen, Governmental Services Division Director

From: Delia Smith, Community Economic Support Director

Date: September 2, 2020

Subject: Request to Amend Community Support Fund Rule Book, Law 125

Here are the changes for Community Support Fund. The proposed amendments would allow tribal members to receive additional assistance through the Disability Endowment Program. Community Support has an established foundation in place to support the addition of the Disability Endowment. Therefore, we are asking for an amendment to the specific rules and Law to encompass the changes. As a GTC directive, the following amendments will capture some of the unmet needs of the tribal membership. The funds to support the amendments would be supported by the Disability Endowment funds that have been previously allocated by tribal resolution.

We ask that the request for income verification be taken out of the law. None of the rules review income as a basis for program eligibility.

IV. Emergency Non- Emergency Medical Travel pg. 5

Recommendation: Amend 4-5 (b) and add 2

4-5 b. Add; **all new language**

- (1) Non-Emergency for local members with chronic serious medical needs may be reimbursed to the applicant with valid receipt within 30 days of appointments. Once the application is approved applicants within the reservation boundaries may receive assistance directly from the program during regular business hours.
- (2) Applicants traveling less than 60 miles one way may receive assistance or reimbursement not to exceed \$20.00 per week for verified chronic serious medical appointments.
- (3). Applicants within reservation boundaries traveling less than 60 miles one way will be eligible to receive one monthly receive public or tribal bus passes for verified chronic serious medical appointments.

IX. Medical Related Equipment, Supplies, Or Furniture pg. 12

Recommendation: Amend 9-7 and 9-10

9.7 Change \$1000.00 to \$2000.00

9-10 Change \$1000.00 to \$2000.00

XVI. Security Deposit Assistance pg. 20

Recommendation: Amend 16-1, 16.3 (b) & (d);

16.1 Strike out “residing in the State of Wisconsin”

16.3 (b) Strike out “in the State of Wisconsin”

(d) Strike out the whole sentence.

XVII. Social Security Disability Determination Shelter Assistance pg. 21

Recommendation: Amend 17-5

17.5 Strike out “twenty-four (24)” and replace with twelve (12)

There are four specific areas that we feel would be advantageous to review and amend.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: September 16, 2020
- 2) Contact Person(s): David P. Jordan
 Dept: OBC
 Phone Number: 920-869-4364 Email: djordan1@oneidanation.org
- 3) Agenda Title: Child Support Services
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Tribal Sovereignty Constitution Preambles that state purpose of Nation
for its Members prosperity and self-sufficiency.
Child Support Services on Need-Basis where poverty to low-income,
single parent households, and homelessness would constitute child
support services to eradicate retaliation efforts and high-risk youth.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Oneida Nation Constitution
- 2) BC Resolution # 01-08-20-C
- 3) Personal Statement of concern
- 4) from B. Metoxen-Smith
- 5) Please list any laws, policies or resolutions that might be affected:
Clarify BC Resolution #01-08-20-C Para.5 to be enforced with Oneida Child Support.
- 6) Please list all other departments or person(s) you have brought your concern to:
Ho-Chunk Nation Judiciary, Oneida Child Support
- 7) Do you consider this request urgent? ☒ Yes ☐ No
 If yes, please indicate why:
Financial Relief

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

BROOKE METOXEN-SMITH

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

Wednesday, September 16, 2020

To: Oneida Nation Business Committee, Agenda Request Form (LOC)

From: Brooke Metoxen-Smith

PO Box 308

Oneida, WI 54155

Bmetsmith@gmail.com

Subject: Child Support Services

Complaint: Verify household income for "...support payments more equitable by ensuring consistent treatment of persons in similar circumstances; make support payments based on the real earning capability of parents; and improve the efficiency of child support establishment and enforcement..." BC Resolution #01-08-20-C, Para.5

Reference: "...to conserve and develop our common resources and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution..."
Constitution And By-Laws Of The Oneida Nation Preamble

Explanation: To uphold the Tribal Constitution on the welfare of its members (and descendants) to be able to promote welfare for services. When it is not needed, because services may not be required for every tribal household, child support services should not be needed so long as the child is taken care of. To take into account: Child Tax Credits, Social Services, Employment from the child, and FEMA/Cares Act payments.

Where the household is with two incomes and the class stratification is in a low-crime neighborhood and education is up to standard, there is a low risk for delinquency so long as the child is taken care of.

The support payments are for specific parents that should not be generalized due to separation of parental relationships and resolved to be in single-parent households, low income households, poverty or homelessness, and a blatant desire/need to improve quality of life.

Currently – A single, Ho-Chunk Nation enrolled woman whose reputation and upbringing has been in the Oneida community (half-blood descendent) cannot afford cost of living alone to provide for her son. Since the father is able to provide, so be it. Full rent, no vehicle, no employment, and the ability to not see past a probationary period due to supervisory discretion with no real explanation in employment resume since an AAS

Wednesday, September 16, 2020

degree from College of Menominee Nation in 2013. The percapita income is too high for services with a child as a single parent – (\$25 in EBT, able to receive free lunches at school). Homelessness, high cost of living situations (tourist towns like Wisconsin Dells provide high cost of living), while upholding a visitation schedule with over 300 miles every other weekend so he would not have to pay child support (2008). Those situations should be considered – the extent someone will go to for not paying child support while their child is in poverty conditions is a history to be accounted for. She has not received a tax income credit or surplus of tax relief for having a child (the entire time she was with claiming a child – every other year was claimed, and only on the father's years was there a tax child surplus of money [avg. \$5000] because he kept a visitation schedule to not pay child support and it was agreed to have every other year able to claim the child on taxes.

When I go to court to get a visitation schedule (2020)– they do not hear the resolution and continue with what I could be paying in child support fees instead. There is an increase from the only guaranteed income (Ho-Chunk Nation percapita) with 17% to include a 30 hours a week at minimum wage.

“...the amendments to the Law make updates to how child support obligations are calculated in certain special circumstances...” BC Resolution #01-08-20-C, para.10.

I request a visitation schedule and am told that mediation services are available. The father refuses. So, when can I get a visitation schedule to not have to pay child support? There is no enforcement and am told I have to go back into court again for a modification on placement of child.

Special circumstances is the woman is homeless during those years as to not being able to have a visitation schedule.

The inability to pay full rent on a single person income means poverty level housing.

The father and child are financially stable and capable of making their own money.

This explanation is to suffice the parental obligations, financially and with its own hardship prior to these amendments. It has not been supported as efficient with home visits from social workers to relieve my parental duties as unable and have resulted in capable.

Resolution: Every child support case is unique and diligently has records of child neglect, abuse, and history on parental services received along with tax income verifications for household income. This should also contain cost-of-living and quality of child's educational demeanor. A good neighborhood with no proper parental decree is living the

Wednesday, September 16, 2020

hardwork of another parent in poorer situations with the esteem of implementing the dire need to be successful in educational endeavors.

Since this is already stated in amended resolutions for child support in BC Resolution #01-08-20-C, I would like to inform you that the Judicial Standard has not been reviewed as their interpretation of the law to execute what is performed in their decision-making that is unconstitutional. The inclusion of one adapted amendment with disregard to the entirety of it, for personal favor in gaining support in Oneida court. Judicial Review is requested and needed.

This has affected Oneida Child Support by treating every child as incapable (maturity in employment efforts for personal goods) and enforcing the stratification system of wealthy, luxurious, comfortable lifestyles to suffocate the single person households to be in debt to affect credit scores and reputation and relationship with child.

It should not also be required to support a child when it is not needed. Financial obligation is not retaliation. Financial obligation is not a waiver for parental responsibility.

The first and foremost to be upheld is the Constitution of the Tribal Sovereignty towards its individual members. Social Services is a paid service from Tribal Revenue – which means that everyone is paying child support already. Those services have taken a monetary value to provide employment and educative rehabilitation and services from the collected revenue made by the Nation.

Then the individual employee pays another deduction for having a child support case. Taxable.

State taxes are taken for services.

There is a substantial amount of money in welfare for services that they can utilize if they desire help when there are tribal members of sovereign nations involved in the child support case. They can apply just like everyone else does if they require assistance to provide.

The Oneida Child Support Website also states that they have case loads appropriately smaller than state and county cases. That available time should include these standards and historical child welfare status inquiries to consider. It is possible to evaluate each case individually.

Child Support is the ability to be there for the child in parental guidance, not monetary value. The further we indebt ourselves for overpayment towards an obvious relief like parenting skills and spending time with children – the less we improve by generation after generation for relying on payments made for having children. The quality of our children depreciates and the success rates of the blood quantum diminishes to be a

Wednesday, September 16, 2020

problem but more of an extinction. Family values and standards need real parents at home and if I am paying for those services I am dissatisfied with those teachings being disrespectful to the mother of the child without discipline. I demand results.

End.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # 01-08-20-C Amendments to the Child Support Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Child Support law ("the Law") was adopted by the Oneida Business Committee through resolution BC-06-24-09-B and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C, BC-08-13-14-E, and
- WHEREAS,** the purpose of the Law is to establish the legal responsibility of parents to provide financially for their children's general well-being; make support payments more equitable by ensuring consistent treatment of persons in similar circumstances; make support payments based on the real earning capability of parents; and improve the efficiency of child support establishment and enforcement; and
- WHEREAS,** the Legislative Operating Committee worked collaboratively with representatives from the Oneida Child Support Agency, Oneida Family Court, Oneida Police Department, and Oneida Law Office to develop the amendments to this Law; and
- WHEREAS,** the amendments to the Law create a process to suspend or modify child support orders for parents incarcerated for one hundred and eighty (180) days or more; and
- WHEREAS,** the amendments to the Law update notice requirements and timelines for initiating an action by the Agency, sending appointment letters for noncompliance, sending notice of delinquency, sending notice of enforcement action, and sending income withholding orders; and
- WHEREAS,** the amendments to the Law clarify how the Family Court may redact addresses and identifying information from court documents to ensure the safety of a party; and
- WHEREAS,** the amendments to the Law make updates to how child support obligations are calculated in certain special circumstances; and
- WHEREAS,** the amendments to the Law update what constitutes a "substantial change in circumstance" that warrants a modification of a child support order; and

BC Resolution # 01-08-20-C
Amendments to the Child Support Law
Page 2 of 2

- WHEREAS,** the amendments to the Law repeal Child Support Law Rule No. 1 - Deviation from Child Support and Child Support Law Rule No. 2 - Enforcement Tools and move the contents of the rules into the body of the law itself; and
- WHEREAS,** the amendments to the Law make other minor drafting revisions; and
- WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the amendments to the Law; and
- WHEREAS,** a public meeting on the proposed amendments to this Law was held on October 17, 2019, in accordance with the Legislative Procedures Act, and the public comment period was held open until October 24, 2019; and
- WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public comments received on November 6, 2019; and

NOW THEREFORE BE IT RESOLVED, that the amendments to the Child Support law are hereby adopted and shall be effective on January 22, 2020.

BE IT FINALLY RESOLVED, that Child Support Law Rule No. 1 - Deviation from Child Support and Child Support Law Rule No. 2 - Enforcement Tools are hereby repealed effective January 22, 2019.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 7 members were present at a meeting duly called, noticed and held on the 8th day of January, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 5 members for, 1 member against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."

CONSTITUTION AND BY-LAWS OF THE ONEIDA NATION

We, the people of the Oneida Nation, grateful to Almighty God for his fostering care, in order to reestablish our tribal organization, to conserve and develop our common resources and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution.

This constitution serves as an affirmation of the Oneida Nation's sovereign status as an independent Indian nation and the solemn trust relationship between this Nation and the United States of America.

Article I-Territory

The jurisdiction of the Oneida Nation shall extend to the territory within the present confines of the Oneida Reservation and to such other lands as may be hereafter added thereto within or without said boundary lines under any law of the United States, except as otherwise provided by law.

Article II-Membership

Section 1. The membership of the Oneida Nation shall consist of:

(a) All persons of Indian blood whose names appear on the membership roll of the Oneida Nation in accordance with the Act of September 27, 1967 (81 Stat. 229), Public Law 90-93.

(b) Any child of a member of the Nation born between September 28, 1967, and the effective date of this amendment, who is of at least one-fourth degree Indian blood, provided, that, such member is a resident of the Reservation at the time of the birth of said child.

(c) All children who possess at least one-fourth degree Oneida blood are born after the effective date of this amendment to members of the Nation who are residents of the reservation at the time of said children's birth.

Section 2. The General Tribal Council shall have the power to promulgate ordinances covering future membership and the adoption of new members.

Article III-Governing Body

Section 1. The governing body of the Oneida Nation shall be the General Tribal Council composed of all the qualified voters of the Oneida Nation.

Section 2. All enrolled members of the Oneida Nation who are eighteen (18) years of age or over shall be qualified voters provided they present themselves in person at the polls on the day of election.

Section 3. The qualified voters of the Oneida Nation shall elect from among the enrolled Oneida Nation members age twenty-one (21) and over who physically reside in either Brown or Outagamie Counties of Wisconsin by secret ballot (a) a chairman; (b) a vice-chairman; (c) a secretary; (d) a treasurer; (e) and five councilmen. These shall constitute the Business Committee and shall perform such duties as may be authorized by the General Tribal Council

A majority of the Business Committee including the chairman or vice-chairman shall constitute a quorum of this body. Regular meetings of the Business Committee may be established by resolution of the Business Committee. Special meetings of the Business Committee shall be held upon a three-day advance notice by the chairman to all members thereof or upon written request of a majority of the Business Committee stating the time, place, and purpose of the meeting.

The General Tribal Council may at any regular special meeting fill any vacancies that occur on the Business Committee for the unexpired term.

The General Tribal Council may at its discretion remove any official on the Business Committee by a two-thirds majority vote at any regular or special meeting of the Tribal Council, pursuant to a duly adopted ordinance. Such ordinance shall fix the specific causes for removal and ensure that the rights of the accused are protected, including his receiving in writing a statement of the charges against him and assurance on sufficient notice thereof where he shall be afforded every opportunity to speak in his own defense.

Section 4. The General Tribal Council shall meet in January and July.

Section 5. The officials provided for in Section 3 of this Article shall be elected every three years in the month of July on a date set by the General Tribal Council. The General Tribal Council shall enact necessary rules and regulations governing the elections of tribal officials.

Section 6. The chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council. Seventy-five (75) qualified voters shall constitute a quorum at any regular or special meeting of the General Tribal Council.

Article IV-Powers of the General Tribal Council

Section 1. Enumerated Powers. - The General Tribal Council of the Oneida Nation shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States:

- (a) To negotiate with the Federal, State, and local governments.
- (b) To employ legal counsel, the choice of counsel and fixing of fees.

(c) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets of the Nation.

(d) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Oneida Nation prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(e) To manage all economic affairs and enterprises of the Oneida Nation.

(f) To promulgate and enforce ordinances, governing the conduct of members of the Oneida Nation, providing for the manner of making, holding, and revoking assignments of tribal land or interests therein, providing for the levying of taxes and the appropriation of available tribal funds for public purposes, providing for the licensing of non-members coming upon the reservation for purposes of hunting, fishing, trading, or other business, and for the exclusion from the territory of the Nation of persons not so licensed and establishing proper agencies for law enforcement upon the Oneida Reservation.

(g) To appoint committees, delegates, and officials deemed necessary for the proper conduct of tribal business or relations.

(h) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards or officials of the Nation, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

(i) To adopt resolutions not inconsistent with this Constitution and the attached By-laws, regulating the procedure of the Council itself and of other tribal agencies, tribal officials, or tribal organizations of the Oneida Reservation.

Section 2. Future Powers. - The General Tribal Council may exercise such further powers as may in the future be delegated to the Council by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal Government.

Section 3. Reserved Powers. - Any rights and powers heretofore vested in the Oneida Nation but not expressly referred to in this Constitution shall not be abridged by this Article, but may be exercised by the people of the Oneida Nation through the adoption of appropriate By-laws and constitutional amendments.

Article V-Judiciary

Section 1. The General Tribal Council shall, by law, establish a judiciary to exercise the judicial authority of the Oneida Nation.

Section 2. Any judiciary in operation prior to the effective date of this amendment to the Constitution may be designated as the judiciary authorized under this article upon passage of a resolution by the General Tribal Council. Such designation shall remain in full force and effect until amended by General Tribal Council.

Article VI – Amendment

Section 1. Amendment by the Oneida Business Committee. Amendments to this Constitution and By-Laws may be proposed by the Oneida Business Committee. Proposed amendments agreed to by eight members of the Oneida Business Committee, excluding the Chair, shall be put before a meeting of the General Tribal Council. If a majority of the voting General Tribal Council members vote in favor of the proposed amendment, the proposed amendment shall be placed upon the ballot of the next General election or special election called for the purpose to consider an amendment.

Section 2. Amendment by Petition. Amendment to this Constitution and By-Laws may be proposed by petition of the members eligible to vote. Every petition shall include the full text of the proposed amendment, and be signed by members eligible to vote, equal in number to at least ten percent (10%) of the members eligible to vote. Petition with the requisite number of signatures may be put before the Oneida people for their approval or rejection at the next general election, except when the Oneida Business Committee or General Tribal Council orders a special election for the purpose. Such petitions shall be filed with the person authorized by law to receive the same at least ninety (90) days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by Oneida law. The person authorized by law to receive such petition shall upon its receipt determine, as provide by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least sixty (60) days prior to the election at which the proposed amendment is to be voted upon. Any amendment proposed by such petition shall be submitted, not less than ninety (90) days after it was filed, to the next general or special election called for the purpose to consider an amendment.

Section 3. Any proposed amendment, existing provision of the Constitution and By-Laws which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by Oneida Law. Copies of such publications shall be prominently posted in each polling place, at Tribal administration offices, and furnished to news media as provided Oneida law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than one hundred (100) words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person who is so authorized by Oneida law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as to create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by sixty-five percent (65%) of the members eligible to vote who presented themselves at the polls and voted on the question, it shall become part of the Oneida Constitution and By-Laws, and shall abrogate or amend existing provisions of the Constitution and By-Laws at the end of thirty (30) days after submission of the final election report as directed law. If two or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote shall prevail.

Article VII-Bill of Rights

All members of the Nation shall be accorded equal opportunities to participate in the economic resources and activities of the Nation. All members of the tribe may enjoy, without

hindrance, freedom of worship, conscience, speech, press, assembly, association and due process of law, as guaranteed by the Constitution of the United States.

BY-LAWS OF THE ONEIDA NATION

Article I-Duties of Officers

Section 1. Chairman of Council. - The Chairman of the Council shall preside over all meetings of the Council, shall perform the usual duties of a Chairman, and exercise any authority delegated to him by the Council. He shall vote only in the case of a tie.

Section 2. Vice-Chairman of Council. - The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman, he shall preside. When so presiding, he shall have all the rights, privileges and duties as well as the responsibilities of the Chairman.

Section 3. Secretary of the Council. - The Secretary of the Tribal Council shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted at Council meetings. It shall be his duty to submit promptly to the Superintendent of the jurisdiction, and the Commissioner of Indian Affairs, copies of all minutes of regular and special meetings of the Tribal Council.

Section 4. Treasurer of Council. - The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Council, whether they be tribal funds or special funds for which the Council is acting as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at each regular meeting of the General Tribal Council, and at such other times as requested by the Council or the business committee.

He shall not pay out or otherwise disburse any funds in his possession or custody, except in accordance with a resolution duly passed by the Council.

The Treasurer shall be required to give a bond satisfactory to the Council and to the Commissioner of Indian Affairs.

Section 5. Appointive Officers. - The duties of all appointive boards or officers of the Community shall be clearly defined by resolutions of the Council at the time of their creation or appointment. Such boards and officers shall report, from time to time as required, to the Council, and their activities and decisions shall be subject to review by the Council upon the petition of any person aggrieved.

Article II-Ratification of Constitution and By-laws

This Constitution and these By-laws, when adopted by a majority vote of the voters of the Oneida Nation voting at a special election called by the Secretary of the Interior, in which at least 30 per cent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of such approval. 7

Adoption Dates

- Original Constitution adopted November 14, 1936 by Oneida Tribe. Approved by the Secretary of the Interior December 21, 1936.
- Amended June 3, 1939, approved June 15, 1939.
- Amended October 18, 1969, approved November 28, 1969.
- Amended June 14, 1969, approved August 25, 1969.
- Amended June 14, 1969, approved August 25, 1969.
- Amended June 14, 1969, approved, August 25, 1969.
- Amendment X approved June 16, 2015, notice received June 24, 2015
- Amendment XI approved June 16, 2015, notice received June 24, 2015
- Amendment XII approved June 16, 2015, notice received June 24, 2015
- Amendment XIII approved June 16, 2015, notice received June 24, 2015
- Amendment XIV approved June 16, 2015, notice received June 24, 2015



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: September 24, 2020
- 2) Contact Person(s): Clorissa N. Santiago
 Dept: Legislative Reference Office
 Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Layoff Policy Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
During a LOC work session on September 24, 2020, the LOC determined
that the Layoff Policy, and relevant COVID-19 declarations and SOPs,
should be reviewed and amendments should be made to the Layoff
Policy to ensure that the Layoff Policy can be used in the future in a clear
and consistent manner.

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☒ No

If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
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AGENDA REQUEST FORM

- 1) Request Date: September 24, 2020
- 2) Contact Person(s): Clorissa N. Santiago
 Dept: Legislative Reference Office
 Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Furlough Law Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
During a LOC work session on September 24, 2020, the LOC determined
that the Furlough law, and relevant COVID-19 declarations and SOPs,
should be reviewed and amendments should be made to the Furlough
law to ensure that the Furlough law can be used in the future in a clear
and consistent manner.

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☒ No

If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376



HANDOUT

Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov

**AGENDA REQUEST FORM**

- 1) Request Date: September 24, 2020
- 2) Contact Person(s): Clorissa N. Santiago
 Dept: Legislative Reference Office
 Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Misappropriation of Funds Law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:

At the 8/26/20 OBC meeting there was a discussion regarding outstanding employment related misappropriation of funds. The Nation has been unable to prosecute, take action to recover funds, press charges or place anything in the personnel record for future employment considerations. The OBC recommended that the LOC consider developing a law that could strengthen the Nation's response to the misappropriation of funds. On 9/24/20 the LOC reviewed this request and decided to pursue the development of a Misappropriation of Funds law.

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|------------|------------|
| 1) <u></u> | 3) <u></u> |
| 2) <u></u> | 4) <u></u> |

- 5) Please list any laws, policies or resolutions that might be affected:
- 6) Please list all other departments or person(s) you have brought your concern to:
- 7) Do you consider this request urgent? ☐ Yes ☒ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Please send this form and all supporting materials to:

LOC@oneidanation.org

or


Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376



TO: Oneida Nation Community
FROM: David P. Jordan, Legislative Operating Committee Chairperson 
DATE: October 7, 2020
RE: 2017-2020 LOC Active Files List: Outstanding Items Review

The Legislative Operating Committee Bylaws require that any outstanding legislation at the end of a term be presented for consideration to the newly elected Legislative Operating Committee within sixty (60) days after the new Legislative Operating Committee takes office.

At the end of the 2017-2020 legislative term, the following twenty-eight (28) outstanding legislative items remained on the Active Files List:

- Attorney Contract Policy Amendments
- Code of Ethics Law Amendments
- Environmental Review Law
- Guardianship Law
- Industrial Hemp Law
- Oneida Nation Emergency Planning Committee Bylaws Amendments
- Oneida General Welfare Law
- Oneida Land Commission Bylaws Amendments
- Petition: M. Debraska – Increase GTC Stipend
- Rules of Civil Procedure Law Amendments
- Real Property Law Emergency Amendments
- Tribal Institutional Review Board Law
- Tribal Traffic Code
- Work Visas Law
- Business Corporations Law
- Drug and Alcohol Free Law for Elected and Appointed Officials
- Emergency Management and Homeland Security Law Emergency Amendments
- Investigative Leave Policy Amendments
- Law Enforcement Ordinance Amendments
- Oneida Personnel Policies and Procedures Amendments
- Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments
- Oneida Trust Enrollment Committee Bylaws Amendments
- Public Peace Law
- Recycling and Solid Waste Disposal Law Amendments
- Sanctions and Penalties Law
- Taxation Law
- Wellness Court Law
- Workplace Violence Law Amendments

On September 24, 2020, the Legislative Operating Committee reviewed all outstanding items on the Active Files List from the 2017-2020 term. The Legislative Operating Committee determined that the following twenty-three (23) legislative items would be carried over and added to the Active Files List for the 2020-2023 legislative Term:

- Business Corporations Law
- Code of Ethics Law Amendments

- Drug and Alcohol Free Law for Elected and Appointed Officials
- Environmental Review Law
- Industrial Hemp Law
- Law Enforcement Ordinance Amendments
- Oneida Higher Education Pandemic Relief Fund Law Amendments
- Oneida Personnel Policies and Procedures Amendments
- Petition: M. Debraska – GTC Stipend Increase
- Real Property Law Amendments
- Sanctions and Penalties Law
- Taxation Law
- Workplace Violence Law
- Emergency Management and Homeland Security Law Amendments
- Guardianship Law
- Investigative Leave Policy Amendments
- Oneida General Welfare Law
- Oneida Nation Emergency Planning Committee Bylaws Amendments
- Oneida Trust Enrollment Committee Bylaws Amendments
- Public Peace Law
- Recycling and Solid Waste Disposal Law Amendments
- Traffic Law
- Wellness Court Law

For the remaining outstanding items that the Legislative Operating Committee chose not to carry over to the 2020-2023 term and add to the Active Files List, correspondence will be sent to the original requestor informing them of this decision.

A request for the development of legislation may be submitted to the Legislative Operating Committee at any time. In accordance with section 109.5-1 of the Legislative Procedures Act, any interested person may submit a written request to the Legislative Reference Office for legislation. Upon receiving such a request, the Legislative Operating Committee is then required to review the request at its next duly called meeting.

For more information about how to submit a request to the Legislative Operating Committee, please contact the Legislative Reference Office at (920) 869-4417 or by e-mail at LOC@oneidanation.org.

August 24, 2020, Legislative Operating Committee E-Poll

Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law

E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law



LOC

To: Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen

Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster



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Mon 8/24/2020 2:08 PM



Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments Packet.pdf
662 KB

Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the emergency amendments to the Oneida Higher Education Pandemic Relief Fund law.

EXECUTIVE SUMMARY

Emergency amendments to the Oneida Higher Education Pandemic Relief Fund law ("the Law") are being sought to clarify the intent of the Law and ensure proper effectuation of the Law. The Law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-E 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. [10 O.C. 1003.1-1]. The emergency amendments to the Law will:

- Add a definition for "accredited" [10 O.C. 1003.3-1(a)];
- Revise the definition for "higher education institution" so it is clarified that the higher education institution must be accredited [10 O.C. 1003.3-1(e)];
- Include transportation costs in the definition for "room and board" [10 O.C. 1003.3-1(i)]; and
- Clarify that all student 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. [10 O.C. 1003.4-2(c)].

The Oneida Business Committee is delegated the authority to temporarily enact emergency legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency amendments to a law of the Nation. [1 O.C. 109.9-5(a)].

The adoption of emergency amendments to this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency amendments to the Law are necessary to clarify the intent of the Law and ensure proper effectuation of the law. The Oneida Higher Education Pandemic Relief Fund was created to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency. The emergency amendments to the Law shall ensure that the Oneida Higher Education Pandemic Relief Fund is utilized for students at accredited higher education institutions, and better meets the needs of students of the Nation by including transportation costs, and clarifying that all student expenses, not just room and board and classroom requirements, 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.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the amendments to this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund law can be amended to best meet the needs of students during the 2020 Fall Term.

The emergency amendments to this Law will become effective immediately upon adoption by the Oneida Business Committee and will remain in effect for six (6) months. There will be one (1) opportunity to extend the emergency amendments to this Law for an additional six (6) month period. [1 O.C. 109.9-5(b)].

An e-poll is necessary for this matter because the Legislative Operating Committee has canceled all meetings due to the COVID-19 pandemic, and immediate action is required by Legislative Operating Committee to approve the materials for the emergency amendments to the Oneida Higher Education Pandemic Relief Fund law so that the emergency amendments can be submitted to the Oneida Business Committee for consideration.

REQUESTED ACTION

- Approve the Oneida Higher Education Pandemic Relief Fund law emergency amendments adoption packet and forward to the Oneida Business Committee.

DEADLINE FOR RESPONSE

August 24, 2020 at 4:30 p.m.

All supporting documentation has been attached to this email for your convenience.



A good mind. A good heart. A strong fire.

E-POLL RESULTS:

The e-poll was approved by Ernest Stevens III, David P. Jordan, Jennifer Webster, Kirby Metoxen, and Daniel Guzman King.

Re: E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund ...



Ernest L. Stevens

To: Daniel P. Guzman; David P. Jordan; Jennifer A. Webster; Kirby W. Metoxen; LOC

Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster

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RE: E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund ...



David P. Jordan

To: LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen; David P. Jordan
 Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster

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Mon 8/24/2020 2:10 PM

Approve

RE: E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund



Jennifer A. Webster

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Kirby W. Metoxen
 Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster

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Approve,
 Jenny

RE: E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund



Kirby W. Metoxen

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster
 Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster

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Mon 8/24/2020 2:11 PM

Approve

Kirby Metoxen

Kirby Metoxen, Councilman

kmetox@oneidanation.org

Work Phone: (920) 869-4441

Fax: (920) 869-4040



A good mind. A good heart. A strong fire.

The information contained in this e-mail is confidential and privileged. If you are not the intended recipient, please be advised that any use, copying, or dissemination of this information is prohibited. Please destroy this e-mail and immediately notify us of the erroneous transmission.

RE: E-POLL REQUEST: Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund



Daniel P. Guzman


To: LOC; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen
 Cc: Clorissa N. Santiago; Fawn J. Billie; Jameson J. Wilson; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster

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Mon 8/24/2020 2:14 PM

approve



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: August 24, 2020
RE: Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law

Please find the following attached backup documentation for your consideration of the emergency amendments to the Oneida Higher Education Pandemic Relief Fund law:

1. Resolution: Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law
2. Statement of Effect: Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law
3. Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments Legislative Analysis
4. Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments (Redline)
5. Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments (Clean)

Overview

The Oneida Higher Education Pandemic Relief Fund law (the “Law”) was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-E 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. [10 O.C. 1003.1-1]. The Oneida Higher Education Pandemic Relief Fund law:

- Provides the guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund [10 O.C. 1003.4];
- Describes the presumption of need and the General Test to be used to determine General Welfare Exclusion [10 O.C. 1003.5];
- Provides that the Nation allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the Coronavirus Relief Funds (CRF), and that this program is dependent on availability of funding from the CRF. [10 O.C. 1003.6].

Emergency amendments to the Law are being sought to clarify the intent of the Law and ensure proper effectuation of the Law. The emergency amendments to the Law will:

- Add a definition for “accredited” [10 O.C. 1003.3-1(a)];
- Revise the definition for “higher education institution” so it is clarified that the higher education institution must be accredited [10 O.C. 1003.3-1(e)];
- Include transportation costs in the definition for “room and board” [10 O.C. 1003.3-1(i)]; and

- Clarify that all student 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. [10 O.C. 1003.4-2(c)].

In response to the outbreak of the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and provided the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until September 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, and BC-08-06-20-A.

On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a “*Safer at Home Declaration, Amendment, Open for Business*” declaration was issued which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Core Decision Making Team most recently issued a “*Stay Safer at Home*” declaration on June 10, 2020, which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020.*” This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation and reduction of all funding to essential services only. The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, “*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021.*” This resolution provided that the General Tribal Council Higher Education Scholarship shall be reduced to five thousand dollars (\$5,000) per year.

The Oneida Business Committee is delegated the authority to temporarily enact emergency legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency amendments to a law of the Nation. [1 O.C. 109.9-5(a)].

The adoption of emergency amendments to this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency amendments to the Law are

necessary to clarify the intent of the Law and ensure proper effectuation of the law. The Oneida Higher Education Pandemic Relief Fund was created to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency. The emergency amendments to the Law shall ensure that the Oneida Higher Education Pandemic Relief Fund is utilized for students at accredited higher education institutions, and better meets the needs of students of the Nation by including transportation costs, and clarifying that all student expenses, not just room and board and classroom requirements, 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.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the amendments to this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund law can be amended to best meet the needs of students during the 2020 Fall Term.

The emergency amendments to this Law will become effective immediately upon adoption by the Oneida Business Committee and will remain in effect for six (6) months. There will be one (1) opportunity to extend the emergency amendments to this Law for an additional six (6) month period. *[1 O.C. 109.9-5(b)]*.

Requested Action

Approve the Resolution: Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 2 recognized by the laws of the United States of America; and
- 3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 8
- 9 **WHEREAS,** the Oneida Business Committee adopted the Oneida Higher Education Pandemic Relief
- 10 Fund law ("the Law") on an emergency basis through the adoption of resolution BC-08-12-
- 11 20-E; and
- 12
- 13 **WHEREAS,** the purpose of the Law is to create the Oneida Higher Education Pandemic Relief Fund to
- 14 assist eligible Tribal members enrolled as students in higher education institutions with
- 15 funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus
- 16 Relief Funds (CRF) in order to meet the higher education needs of its students during the
- 17 COVID-19 Public Health Emergency; and
- 18
- 19 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
- 20 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for
- 21 the Nation until April 12, 2020, and set into place the necessary authority for action to be
- 22 taken and allows the Nation to seek reimbursement of emergency management actions
- 23 that may result in unexpected expenses; and
- 24
- 25 **WHEREAS,** the Nation's Public Health State of Emergency has since been extended by the Oneida
- 26 Business Committee until September 11, 2020, through the adoption of resolutions BC-03-
- 27 28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, and BC-08-06-20-A; and
- 28
- 29 **WHEREAS,** on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer*
- 30 *at Home*" declaration which prohibited all public gatherings of any number of people and
- 31 ordered all individuals present within the Oneida Reservation to stay at home or at their
- 32 place of residence, with certain exceptions allowed; and
- 33
- 34 **WHEREAS,** the COVID-19 Core Decision Making Team has issued subsequent declarations modifying
- 35 the "*Safer at Home*" declaration including the April 21, 2020 "*Updated Safer at Home*"
- 36 declaration, the May 19, 2020, "*Safer at Home Declaration, Amendment, Open for*
- 37 *Business*" declaration, and the June 10, 2020, "*Stay Safer at Home*" declaration; and
- 38
- 39 **WHEREAS,** on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled,
- 40 "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*" which adopted
- 41 Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget
- 42 Management and Control law, and included five percent (5%) mandatory budget cuts
- 43 across the Nation and reduction of all funding to essential services only; and

44
45 **WHEREAS,** the Oneida Business Committee also adopted resolution BC-04-08-20-G titled, “*Reducing*
46 *the General Tribal Council Higher Education Scholarship Payments for FY2020 and*
47 *FY2021*” which provided that the General Tribal Council Higher Education Scholarship be
48 reduced to five thousand dollars (\$5,000) per year; and
49

50 **WHEREAS,** emergency amendments to the Law are being proposed to clarify the intent of the Law and
51 ensure proper effectuation of the Law; and
52

53 **WHEREAS,** the emergency amendments to the Law add a definition for the term “accredited;” and
54

55 **WHEREAS,** the emergency amendments to the Law revise the definition for “higher education
56 institution” so it is clarified that the higher education institution must be accredited; and
57

58 **WHEREAS,** the emergency amendments to the Law include transportation costs in the definition for
59 “room and board;” and
60

61 **WHEREAS,** the emergency amendments to the Law clarify that all student expenses, not just room and
62 board and classroom requirements, shall be paid directly to the student, whom shall be
63 responsible for maintaining and submitting receipts or other proof of expenditures by
64 December 15, 2020; and
65

66 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to amend
67 legislation on an emergency basis when the legislation is necessary for the immediate
68 preservation of the public health, safety, or general welfare of the Reservation population,
69 and the amendment of the legislation is required sooner than would be possible under the
70 Legislative Procedures Act; and
71

72 **WHEREAS,** the emergency amendments to this Law are necessary for the preservation of the general
73 welfare of the Reservation population as the emergency amendments ensure that the
74 Oneida Higher Education Pandemic Relief Fund is utilized for students at accredited higher
75 education institutions, and ensure that the Law better meets the needs of students of the
76 Nation by including transportation costs, and clarifying that all student expenses, not just
77 room and board and classroom requirements, shall be paid directly to the student, whom
78 shall be responsible for maintaining and submitting receipts or other proof of expenditures
79 by December 15, 2020; and
80

81 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of the
82 amendments to this Law would be contrary to public interest since the 2020 Fall Term for
83 many higher education institutions begins in a couple weeks and the process and
84 requirements of the Legislative Procedures Act cannot be completed in time to ensure that
85 the Oneida Higher Education Pandemic Relief Fund can best meet the needs of eligible
86 students during the 2020 Fall Term; and
87

88 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
89 when considering the adoption of emergency amendments; and
90

91 **WHEREAS,** the emergency amendments are effective for a period of six (6) months, renewable by the
92 Oneida Business Committee for an additional six (6) month term; and
93

94 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the emergency
95 amendments to the Oneida Higher Education Pandemic Relief Fund law effective immediately.



Statement of Effect

Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law

Summary

This resolution adopts emergency amendments to the Oneida Higher Education Pandemic Relief Fund law to clarify the intent of the Law and ensure proper effectuation of the Law.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office
Date: August 24, 2020

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Oneida Higher Education Pandemic Relief Fund law (“the Law”). The purpose of the 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. [10 O.C. 1003.1-1]. Emergency amendments to the Law are being sought to clarify the intent of the Law and ensure proper effectuation of the Law. The emergency amendments to the Oneida Higher Education Pandemic Relief Fund law shall:

- Add a definition for “accredited” [10 O.C. 1003.3-1(a)];
- Revise the definition for “higher education institution” so it is clarified that the higher education institution must be accredited [10 O.C. 1003.3-1(e)];
- Include transportation costs in the definition for “room and board” [10 O.C. 1003.3-1(i)]; and
- Clarify that all student 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. [10 O.C. 1003.4-2(c)].

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA allows the Oneida Business Committee to take emergency action to adopt amendments to a Law of the Nation where it is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and when amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].

In response to the COVID-19 pandemic, on March 12, 2020, Chairman Tehassi Hill signed a “Declaration of Public Health State of Emergency” regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until September 11, 2020, through

the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, and BC-08-06-20-A.

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].

On March 24, 2020, the Nation’s COVID-19 Team issued a “*Safer at Home*” declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a “*Safer at Home Declaration, Amendment, Open for Business*” declaration was issued which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Team most recently issued a “*Stay Safer at Home*” declaration on June 10, 2020, which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020.*” This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation and reduction of all funding to essential services only. The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, “*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021.*” This resolution provided that the General Tribal Council Higher Education Scholarship be reduced to five thousand dollars (\$5,000) per year.

The resolution provides that the adoption of emergency amendments to this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency amendments to the Law are necessary to clarify the intent of the Law and ensure proper effectuation of the Law. The Oneida Higher Education Pandemic Relief Fund was created to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency. The emergency amendments to the Law shall ensure that the Oneida Higher Education Pandemic Relief Fund is utilized for students at accredited higher education institutions, and better meets the needs of students of the Nation by including transportation costs, and clarifying that all student expenses, not just room and board and classroom requirements, 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.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the amendments to this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund law can be amended to best meet the needs of students during the 2020 Fall Term.

The emergency amendments to this Law will become effective immediately upon adoption by the Oneida Business Committee and remain in effect for six (6) months. The LPA allows for one (1) opportunity to extend the emergency amendments to this Law for an additional six (6) month period. [1 O.C. 109.9-5(b)].

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



EMERGENCY AMENDMENTS TO THE ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

| <i>Analysis by the Legislative Reference Office</i> | |
|---|--|
| Intent of the Proposed Amendments | <ul style="list-style-type: none">▪ Add a definition for “accredited” [10 O.C. 1003.3-1(a)];▪ Revise the definition for “higher education institution” so it is clarified that the higher education institution must be accredited [10 O.C. 1003.3-1(e)];▪ Include transportation costs in the definition for “room and board” [10 O.C. 1003.3-1(i)]; and▪ Clarify that all student 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. [10 O.C. 1003.4-2(c)]. |
| Purpose | 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. [10 O.C. 1003.1-1]. |
| Affected Entities | Oneida Business Committee, Oneida Higher Education Department, Oneida Accounting Department, Oneida Economic Services |
| Public Meeting | A public meeting is not required for emergency amendments [1 O.C. 109.8-1(b) and 109.9-5(a)]. |
| Fiscal Impact | A fiscal impact statement is not required for emergency amendments [1 O.C. 109.9-5(a)]. |
| Expiration of Emergency Amendments | Emergency amendments expires six (6) months after adoption and may be renewed for an additional six (6) month period. |

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. The Oneida Higher Education Pandemic Relief Fund law (“the Law”) was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-E for the purpose of creating the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1].

- *Request for Emergency Amendments.* Emergency amendments to the Law are being sought to clarify the intent of the Law and ensure proper effectuation of the Law.

B. COVID-19 Pandemic. The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses.

- *Declaration of a Public Health State of Emergency.*

- On March 12, 2020, Chairman Tehassi Hill signed a “Declaration of Public Health State of Emergency” regarding COVID-19 which declared the Public Health State of Emergency

for the Nation until April 12, 2020, and set into place the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

- The Public Health State of Emergency has since been extended until September 11, 2020, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A.

- *Additional Action taken by the Nation in Response to COVID-19.*

- On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10].
 - When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2].
 - These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].
- On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, “Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020,” which required a great reduction in expenses as a result of zero gaming revenues supporting governmental functions and included initial and on-going layoffs.
- The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, “Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021.” This resolution provided that the General Tribal Council Higher Education Scholarship be reduced to five thousand dollars (\$5,000) per year.
- *COVID-19 Team Declarations: Safer at Home.*
 - On March 24, 2020, the Nation’s COVID-19 Team issued a “Safer at Home” declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.
 - On April 21, 2020, the COVID-19 Team issued an “Updated Safer at Home” declaration which allowed for gaming and golf operations to resume.
 - On May 19, 2020, the COVID-19 Team issued a “Safer at Home Declaration, Amendment, Open for Business” which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons.
 - On June 10, 2020, the COVID-19 Team issued a “Stay Safer at Home” declaration which lessened the restrictions of the “Safer at Home Declaration, Amendment, Open for Business” while still providing guidance and some restrictions.

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of the emergency amendments to this Law and legislative analysis:

- Oneida Law Office.

SECTION 4. PROCESS

- B.** These amendments are being considered on an emergency basis. The Oneida Business Committee may temporarily enact emergency legislation where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and the enactment or amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. *[1 O.C. 109.9-5]*.
- Emergency adoption of this Law is being pursued for the preservation of the general welfare of the Reservation population. The emergency amendments to the Law are necessary to clarify the intent of the Law and ensure proper effectuation of the law. The Oneida Higher Education Pandemic Relief Fund was created to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency. The emergency amendments to the Law shall ensure that the Oneida Higher Education Pandemic Relief Fund is utilized for students at accredited higher education institutions, and ensures that the Fund better meets the needs of students of the Nation by including transportation costs, and clarifying that all student expenses, not just room and board and classroom requirements, 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.
 - Observance of the requirements under the Legislative Procedures Act for the adoption of the emergency amendments to this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund can best meet the needs of eligible students during the 2020 Fall Term.
- C.** Emergency amendments typically expires six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency amendments. *[1 O.C. 109.9-5(b)]*.
- D.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering the adoption of emergency amendments. *[1 O.C. 109.9-5(a)]*. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of the emergency amendments to this Law.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. *Definition for Accredited.*** The proposed emergency amendments to the Law provide a definition for the term “accredited.” The term “accredited” is defined as qualified and approved by a United States Department of Education recognized accrediting body, state-approved accrediting body, or recognized through a professional affiliation. *[10 O.C. 1003.3-1(a)]*.
- *Effect.* The proposed definition for “accredited” provides clarification as to what this term means to the reader.
- B. *Definition for Higher Education Institution.*** The proposed emergency amendments to the Law revise the definition for “higher education institution.” A “higher education institution” is defined through the emergency amendments to the Law as an accredited university, college, vocational college, community

college, liberal arts college, postgraduate school, institute of technology or other collegiate level institution. [10 O.C. 1003.3-1(e)]. Previously, the term “higher education institution” was defined as universities, colleges, vocational colleges, community colleges, liberal arts colleges, postgraduate schools, institutes of technology, and other collegiate level institutions, such as vocational schools, trade schools and career colleges, that award academic degrees or professional certifications.

- *Effect.* The definition for “higher education institution” was revised to clarify that the higher education institutions must be accredited.

C. Definition for Room and Board. The emergency amendments to the Law revise the definition for “room and board.” The emergency amendments to the Law define “room and board” as 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. [10 O.C. 1003.3-1(i)]. Previously, the term “room and board” was defined as on or off campus housing and food requirements adjusted to meet the unique lodging and food provision requirements or governmental mandates during the Public Health Emergency.

- *Effect.* The definition for “room and board” was revised to include transportation costs. The amendment of this definition to include transportation costs will help better meet the needs of the Nation’s students.

D. Guidelines and Requirements. The emergency amendments to the Law provide that 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. [10 O.C. 1003.4-2(c)]. Previously, the Law provided that room and board and classroom requirements 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.

- *Effect.* The emergency amendments to the Law provide more clarification on the fact that all student expenses, including but not limited to room and board and classroom requirements, 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.

SECTION 6. EXISTING LEGISLATION

A. Related Legislation. The following laws of the Nation are related to this Law:

- *Oneida General Welfare Law.* The Oneida General Welfare law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Oneida General Welfare law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2].
 - The Oneida General Welfare law sets forth the framework and guidelines for the Oneida Higher Education Pandemic Relief Fund to be created and operated under.
 - Adoption of the emergency amendments to this Law conform with the requirements of the Oneida General Welfare law.

- 147 ▪ *Trust Scholarship Fund Policy.* The Trust Scholarship Fund Policy was adopted by the Oneida
148 Business Committee for the purpose of establishing a trust resource for providing financial aid
149 scholarships to assist eligible enrolled Oneida Tribal members in securing higher educational
150 opportunities based on established criteria. [9 O.C. 901.1-1].
 - 151 ▪ This Law provides that the Oneida Higher Education Pandemic Relief Fund is a unique
152 program not associated with the Oneida Trust Scholarship Fund and this law does not
153 amend or override the Trust Scholarship Fund Policy. [10 O.C. 1003.1-5].
- 154 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
155 Council for the purpose of providing a standard process for the adoption of laws of the Nation
156 which includes taking into account comments from members of the Nation and input from
157 agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - 158 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
159 amendments when the legislation is necessary for the immediate preservation of the
160 public health, safety, or general welfare of the Reservation population and the
161 enactment or amendment of legislation is required sooner than would be possible under
162 this law. [1 O.C. 109.9-5].
 - 163 ▪ The Legislative Operating Committee is responsible for first reviewing the
164 emergency legislation and for forwarding the legislation to the Oneida
165 Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - 166 ▪ The proposed emergency amendments are required to have a legislative
167 analysis completed and attached prior to being sent to the Oneida Business
168 Committee for consideration. [1 O.C. 109.9-5(a)].
 - 169 a. A legislative analysis is a plain language analysis describing the
170 important features of the legislation being considered and factual
171 information to enable the Legislative Operating Committee to make
172 informed decisions regarding legislation. A legislative analysis
173 includes a statement of the legislation's terms and substance; intent of
174 the legislation; a description of the subject(s) involved, including any
175 conflicts with Oneida or other law, key issues, potential impacts of the
176 legislation and policy considerations. [1 O.C. 109.3-1(g)].
 - 177 ▪ Emergency amendments do not require a fiscal impact statement to be
178 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
 - 179 ▪ Upon the determination that an emergency exists the Oneida Business
180 Committee can adopt emergency amendments. The emergency amendments
181 becomes effective immediately upon its approval by the Oneida Business
182 Committee. [1 O.C. 109.9-5(b)].
 - 183 ▪ Emergency amendments remains in effect for a period of up to six (6) months,
184 with an opportunity for a one-time emergency law extension of up to six (6)
185 months. [1 O.C. 109.9-5(b)].
- 186 ▪ Adoption of the emergency amendments to this Law would conform with the
187 requirements of the Legislative Procedures Act.

189 **SECTION 7. OTHER CONSIDERATIONS**

- 190 **A. *Deadline for Permanent Adoption of Legislation.*** The emergency amendments to this Law will expire
191 six (6) months after adoption. The emergency amendments may be renewed for an additional six (6)
192 month period.
- 193 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
194 adoption of the emergency amendments to this Law on a permanent basis within the next six (6) to
195 twelve (12) months.
- 196 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- 197 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
198 emergency legislation [1 O.C. 109.6-1].

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Title 10. General Welfare Exclusion - Chapter 1003
ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND

1003.1. Purpose and Policy
1003.2. Adoption, Amendment, Repeal
1003.3. Definitions
1003.4. Guidelines and Requirements

1003.5. Presumption of Need; General Test for General Welfare
Exclusion
1003.6. Budget

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- - - - -.

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 universities, colleges, an accredited university, college, vocational colleges, college, community colleges, college, liberal arts colleges, college, postgraduate schools, institutes, school, institute of technology and/or other collegiate level institutions, such as vocational schools, trade schools and career colleges, that award academic degrees or professional certifications, 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.

(4m) "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) ~~Room~~ Student expenses, such as room and board and ~~classroom requirements~~ 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 Adopted – BC- - - -

Title 10. General Welfare Exclusion - Chapter 1003

ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND

1003.1. Purpose and Policy
 1003.2. Adoption, Amendment, Repeal
 1003.3. Definitions
 1003.4. Guidelines and Requirements

1003.5. Presumption of Need; General Test for General Welfare
 Exclusion
 1003.6. Budget

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-__-__-__-__.

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 Adopted – BC-__-__-__-__

September 14, 2020, Legislative Operating Committee E-Poll Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergency Amendments to the Active Files List and Approve the Extension of the GTC Meeting Stipend Payment Policy Emergency Amendments Adoption Packet

E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergency Amendments to th...



LOC

To: David P. Jordan; Kirby W. Metoxen; Daniel P. Guzman; Ethel M. Summers; Jennifer A. Webster
Cc: Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Mon 9/14/2020 4:17 PM

This message includes voting buttons. Click here to vote.
This message was sent with High importance.



E-Poll GTC Extension of Emergency Amendments Adoption Packet.pdf
545 KB

Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for: (1) Adding the Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy to the Active Files List; and (2) Approving the materials for the adoption of the Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy.

EXECUTIVE SUMMARY

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” (“Declaration”) pursuant to the Emergency Management and Homeland Security law, which triggered the authority necessary to take action as a result of the COVID-19 pandemic and allows the Nation to seek reimbursement for emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. With the Declaration, the OBC moved to protect the health and welfare of the Nation’s members, employees and community by taking such actions as instituting expenditure restrictions to preserve resources for the provision of governmental services to those members most at risk and closing the Nation’s gaming operations.

The Declaration also met the “extreme financial distress” standard necessary under the Budget Management and Control law to implement the Nation’s budget contingency plan (“Plan”) and, on March 17, 2020, the OBC adopted resolution BC-03-17-20-A to implement the Plan’s Tier IV budget reduction measures. Shortly thereafter, the OBC implemented the Plan’s Tier V measures through adoption of resolution BC-04-08-20-C, which require five percent (5%) mandatory budget cuts across the Nation, a reduction of all funding to essential services only and layoffs, for the remainder of FY2020.

Emergency amendments to the General Tribal Council Meeting Stipend Payment Policy (the “Law”) were adopted by the Oneida Business Committee through resolution BC-04-08-20-A for

the purpose of creating an exception to the mandatory payment of General Tribal Council (“GTC”) meeting stipends when deemed necessary to protect and safeguard the resources and general welfare of the Nation. The emergency amendments to the Law:

- Provide the Oneida Business Committee with authority to decide, through adoption of a resolution, to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time the Oneida Business Committee deems necessary to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)].

The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy were necessary for the preservation of the general welfare of the Reservation population. The emergency amendments provided the OBC the authority to halt the payment of GTC meeting stipends, through adoption of resolution BC-04-08-20-F, where necessary to preserve funding for essential governmental services when no revenues were being generated through gaming operations and for the period of time it will take after gaming operations start back up for the Nation to recover from the financial distress caused by the COVID-19 pandemic.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the emergency amendments was contrary to public interest. The process and requirements of the Legislative Procedures Act could not have been completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic.

The emergency amendments to the Law will expire on October 8, 2020. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. This e-poll is requesting that the LOC: (1) Add the extension of the emergency amendments to the Law to the Active Files List; and (2) Approve the Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy Adoption Packet. A six (6) month extension of the emergency amendments to the Law is being requested because the Nation is still experiencing the effects of the COVID-19 pandemic.

Since the March 12, 2020, “*Declaration of Public Health State of Emergency*” the Nation’s Public Health State of Emergency has been extended until October 12, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A. In addition, the OBC adopted continuing budget resolution BC-08-12-20-J, which directed that “FY2021 expenditures shall derive from each fund unit’s approved contingency plan as impacted by resolution BC-04-08-20-C, *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services.”

Extension of the emergency amendments to the Law will also be consistent with resolution BC-04-08-20-F, which halts GTC meeting stipend payments for FY2020 and FY2021 based on the finding that the financial status of the Nation will continue to be under extreme stress such that, when GTC meetings are scheduled, it will not be possible to make \$180,000 to \$200,000 in stipend payments in the near future and still maintain governmental services.

The extension of the emergency amendments to the Law will become effective on October 8, 2020 when the emergency amendments as adopted through BC-04-08-20-A expire and will remain in effect for an additional six (6) month term which will end on April 8, 2021.

An e-poll is necessary for this matter because the next LOC meeting is October 7, 2020 and the Oneida Business Committee needs to consider this request before the October 8, 2020 expiration date.

REQUESTED ACTIONS

- Add the Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy to the Active Files List; and
- Approve the Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy adoption packet and forward to the Oneida Business Committee for consideration.

DEADLINE FOR RESPONSE

September 15, 2020 at 1:00 p.m.

All supporting documentation has been attached to this email for your convenience.

Kristen M. Hooker
 Staff Attorney
 Legislative Reference Office
 Oneida Nation
 920-869-4411
<https://oneida-nsn.gov/government/register/>



E-POLL RESULTS:

The e-poll was approved by Jennifer Webster, David P. Jordan, Kirby Metoxen, Daniel Guzman King and Marie Summers.

RE: E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergenc...



Jennifer A. Webster

To LOC; David P. Jordan; Kirby W. Metoxen; Daniel P. Guzman; Ethel M. Summers
Cc Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Mon 9/14/2020 4:19 PM

Approve,
Jenny

RE: E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergenc...



David P. Jordan

To LOC; Kirby W. Metoxen; Daniel P. Guzman; Ethel M. Summers; Jennifer A. Webster; David P. Jordan
Cc Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Mon 9/14/2020 4:23 PM

Approve

Re: E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergenc...



Kirby W. Metoxen

To David P. Jordan; LOC; Daniel P. Guzman; Ethel M. Summers; Jennifer A. Webster
Cc Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Mon 9/14/2020 4:27 PM

approve

RE: E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergenc...



Daniel P. Guzman

To LOC; David P. Jordan; Kirby W. Metoxen; Ethel M. Summers; Jennifer A. Webster
Cc Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Tue 9/15/2020 8:38 AM

Approve

RE: E-POLL REQUEST: Approve Adding Extension of the GTC Meeting Stipend Payment Policy Emergenc...



Ethel M. Summers

To LOC; David P. Jordan; Kirby W. Metoxen; Daniel P. Guzman; Jennifer A. Webster
Cc Clorissa N. Santiago; Kristen M. Hooker

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Tue 9/15/2020 9:15 AM

Support.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson DJ
DATE: September 23, 2020
RE: Extension of the General Tribal Council Meeting Stipend Payment Policy
Emergency Amendments

Please find the following attached backup documentation for your consideration of the extension of the General Tribal Council Meeting Stipend Payment Policy Emergency Amendments:

1. Resolution: Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy
2. Statement of Effect: Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy
3. General Tribal Council Meeting Stipend Payment Policy

Overview

Emergency amendments to the General Tribal Council Meeting Stipend Payment Policy (the “Law”) were adopted by the Oneida Business Committee through resolution BC-04-08-20-A for the purpose of creating an exception to the mandatory payment of General Tribal Council (“GTC”) meeting stipends when deemed necessary to protect and safeguard the resources and general welfare of the Nation. The emergency amendments to the Law:

- Provide the Oneida Business Committee with authority to decide, through adoption of a resolution, to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time the Oneida Business Committee deems necessary to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)].

The Oneida Business Committee (“OBC”) is delegated authority to temporarily enact legislation when it is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5].

Earlier this year, the federal government proclaimed a public health emergency due to the COVID-19 virus, attributing it to large numbers of individuals becoming ill, high mortality rates and impacts to the stock market, as well as businesses. State governors, including the State of Wisconsin, also declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” (“Declaration”) pursuant to the Emergency Management and Homeland Security law, which triggered the authority necessary to take action as a result of the COVID-19 pandemic and

allows the Nation to seek reimbursement for emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. With the Declaration, the OBC moved to protect the health and welfare of the Nation's members, employees and community by taking such actions as instituting expenditure restrictions to preserve resources for the provision of governmental services to those members most at risk and closing the Nation's gaming operations.

The Declaration also met the "extreme financial distress" standard necessary under the Budget Management and Control law to implement the Nation's budget contingency plan ("Plan") and, on March 17, 2020, the OBC adopted resolution BC-03-17-20-A to implement the Plan's Tier IV budget reduction measures. Shortly thereafter, the OBC implemented the Plan's Tier V measures through adoption of resolution BC-04-08-20-C, which require five percent (5%) mandatory budget cuts across the Nation, a reduction of all funding to essential services only and layoffs, for the remainder of FY2020.

The emergency amendments to the General Tribal Council Meeting Stipend Payment Policy were necessary for the preservation of the general welfare of the Reservation population. The emergency amendments provided the OBC the authority to halt the payment of GTC meeting stipends, through adoption of resolution BC-04-08-20-F, to preserve funding for essential governmental services when no revenues were being generated through gaming operations and for the period of time it will take after gaming operations start back up for the Nation to recover from the financial distress caused by the COVID-19 pandemic.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the emergency amendments was contrary to public interest. The process and requirements of the Legislative Procedures Act could not have been completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic.

The emergency amendments to the Law will expire on October 8, 2020. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law is being requested because the Nation is still experiencing the effects of the COVID-19 pandemic.

Since the March 12, 2020, "*Declaration of Public Health State of Emergency*" the Nation's Public Health State of Emergency has been extended until October 12, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A. In addition, the OBC adopted continuing budget resolution BC-08-12-20-J, which directed that "FY2021 expenditures shall derive from each fund unit's approved contingency plan as impacted by resolution BC-04-08-20-C, *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services."

Extension of the emergency amendments to the Law will also be consistent with resolution BC-04-08-20-F, which halts GTC meeting stipend payments for FY2020 and FY2021 based on the finding that the financial status of the Nation will continue to be under extreme stress such that,

when GTC meetings are scheduled, it will not be possible to make \$180,000 to \$200,000 in stipend payments in the near future and still maintain governmental services.

The extension of the emergency amendments to the Law will become effective on October 8, 2020 when the emergency amendments as adopted through BC-04-08-20-A expire and will remain in effect for an additional six (6) month term which will end on April 8, 2021.

Requested Action

Approve the Resolution: Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the General Tribal Council Meeting Stipend Payment Policy (the "Law") was adopted by the Oneida Business Committee through resolution BC-12-10-08-K, amended by resolution BC-02-13-13-E, and most recently amended on an emergency basis by resolution BC-04-08-20-A; and
- WHEREAS,** the Law governs the payment of stipends to attendees of a General Tribal Council meeting who meet the eligibility requirements; and
- WHEREAS,** the federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
- WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" regarding COVID-19, declaring a Public Health State of Emergency for the Nation until April 12, 2020, which was then subsequently extended through October 12, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which require a four percent (4%) reduction in overall expenditures and budgets; and
- WHEREAS,** the Oneida Business Committee adopted resolution BC-04-08-20-C, which declared that Tier V budget contingency measures be implemented and directed expenditure reductions of five percent (5%) regarding non-essential government functions and instituted lay-offs regarding non-critical personnel; and
- WHEREAS,** the Treasurer has implemented a COVID-19 Finance Team ("Finance Team") to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions

for continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus; and

WHEREAS, on August 12, 2020, the Oneida Business Committee adopted continuing budget resolution BC-08-12-20-J, directing that FY2021 expenditures shall derive from each fund unit's approved contingency plan as impacted by resolution BC-04-08-20-C, *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services; and

WHEREAS, the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

WHEREAS, the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-04-08-20-A; and

WHEREAS, the emergency amendments to the Law created an exception to the mandatory payment of stipends to qualified attendees of GTC meetings when the Oneida Business Committee determines, through adoption of a resolution, that halting such payments is necessary to protect and safeguard the resources and general welfare of the Nation; and

WHEREAS, the Oneida Business Committee determined that the emergency adoption of these amendments to the Law were necessary for the preservation of the public health, safety and general welfare of the Reservation population because it provides the Oneida Business Committee with the authority to halt payments of GTC meeting stipends when the Nation is under extreme financial stress such that it would not be possible to issue GTC meeting stipends and still maintain essential governmental services; and

WHEREAS, observance of the requirements under the Legislative Procedures Act for adoption of these emergency amendments to the Law was contrary to public interest because the process and requirements of the Legislative Procedures Act could not have been completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic; and

WHEREAS, emergency legislation is effective for a period of six (6) months, renewable for an additional six (6) months by the Oneida Business Committee; and

WHEREAS, upon adoption of the emergency amendments to the Law, the Oneida Business Committee adopted resolution BC-04-08-20-F, which halted the payment of GTC meeting stipends for FY2020 and FY2021 to preserve funding for essential governmental services when no revenues were being generated through gaming operations and for the period of time it will take after gaming operations start back up for the Nation to recover from the financial distress caused by the COVID-19 pandemic; and

WHEREAS, the emergency amendments to the Law will expire on October 8, 2020; and

WHEREAS, a six (6) month extension of the emergency amendments to the Law is being requested because the Nation is still experiencing the extreme financial stress caused by the COVID-19 pandemic and Public Health State of Emergency such that, when GTC meetings are scheduled again, it will not be possible to make the approximate \$180,000 to \$200,000 in stipend payments in the near future and still maintain governmental services; and

103
104 **WHEREAS,** a six (6) month extension is further consistent with resolution BC-04-08-20-F, which halts
105 the payment of GTC meeting stipends for FY2020 and FY2021 based on the determination
106 by the Oneida Business Committees that discontinuing payments for this period of time is
107 necessary to protect and safeguard the resources and general welfare of the Nation; and
108

109 **NOW THEREFORE BE IT RESOLVED,** that the emergency amendments to the General Tribal Council
110 Meeting Stipend Payment Policy are hereby extended for an additional six (6) month period, effective
111 October 8, 2020, and shall expire April 8, 2021.
112



Statement of Effect

Extension of the Emergency Amendments to the General Tribal Council Meeting Stipend Payment Policy

Summary

This resolution extends the emergency amendments to the General Tribal Council Meeting Stipend Payment Policy adopted through resolution BC-04-08-20-A for an additional six (6) months in accordance with the Legislative Procedures Act.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: September 14, 2020

Analysis by the Legislative Reference Office

This resolution extends the emergency amendments to the General Tribal Council Meeting Stipend Payment Policy (the “Law”) for an additional six (6) month term. The purpose of the Law is to govern the payment of stipends for attendance at meetings of the General Tribal Council (“GTC”). [1 O.C. 111.1-1].

Emergency amendments to the Law were adopted by the Oneida Business Committee through resolution BC-04-08-20-A for the purpose of granting the Oneida Business Committee authority to adopt a resolution that halts the payment of GTC meeting stipends to all eligible members of the Nation when the Oneida Business Committee determines it is necessary to protect and safeguard the resources and general welfare of the Nation. [1 O.C. 111.4-3(c)].

The Legislative Procedures Act (“LPA”) allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

On March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1]. The Public Health State of Emergency has since been extended until October 12, 2020 through adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A and BC-09-09-20-A.

On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-A, declaring that the Nation implement the Tier IV measures under its Budget Contingency Plan that was put in place pursuant to the Budget Management and Control law for when the Nation is experiencing extreme financial distress. Shortly thereafter, the Oneida Business Committee implemented the Plan’s Tier V measures, through adoption of resolution BC-04-08-20-C, which requires five percent (5%) mandatory budget cuts across the Nation, a reduction of all funding to

essential services only and layoffs for the remainder of FY2020. Through its adoption of resolution BC-08-12-20-J, said measures are to continue through FY2021.

The Oneida Business Committee determined that the emergency amendments to the Law were necessary for the preservation of the general welfare of the Reservation population. The emergency amendments were needed to provide an exception to the otherwise mandatory payment of GTC meeting stipends when the Oneida Business Committee determines that the halting of said payments would protect and safeguard the resources and general welfare of the Oneida Nation.

Additionally, the Oneida Business Committee determined that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest. The process and requirements of the LPA could not be completed in time to allow the Nation the ability to adequately preserve funding for necessary governmental services and activities as a result of the COVID-19 pandemic.

The emergency amendments to the Law became effective immediately upon adoption by the Oneida Business Committee and were set to be effective for six (6) months. The emergency amendments to the Law will expire on October 8, 2020.

Upon adoption of the emergency amendments to the Law, the Oneida Business Committee adopted resolution BC-04-08-20-F, which halted the payment of GTC meeting stipends for FY2020 and FY2021 to preserve funding for essential governmental services when no revenues were being generated through gaming operations and for the period of time it will take after gaming operations start back up for the Nation to recover from the financial distress caused by the COVID-19 pandemic.

The Legislative Procedures Act authorizes the Oneida Business Committee to extend the adoption of emergency amendments for an additional six (6) month period. [*1 O.C. 109.9-5(b)*]. An extension of the emergency amendments is being requested because the Nation is still experiencing the effects of the COVID-19 pandemic, and, consistent with the findings set forth in resolution BC-04-08-20-F, the financial distress that the Nation has suffered as a result of the COVID-19 pandemic is such that, when GTC meetings are scheduled again, it will not be possible to make the approximate \$180,000 to \$200,000 in stipend payments in the near future while still maintaining governmental services.

Through this resolution, the extension of the emergency amendments to the Law will become effective on October 8, 2020 (when the emergency amendments adopted through BC-04-08-20-A expire) and will remain in effect for an additional six (6) month term which will end on April 8, 2021.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.

OBC Consideration of Extension of the General Tribal Council Meeting Stipend Payment Policy
Emergency Amendments Adopted through Resolution BC-04-08-20-A
2020 09 23

Title 1. Government and Finances – Chapter 111
GENERAL TRIBAL COUNCIL MEETING STIPEND PAYMENT POLICY

111.1. Purpose and Policy

111.2. Adoption, Amendment, Repeal

111.3. Definitions

111.4. Stipends

111.5. General Tribal Council Meetings

111.6. Appeals

111.1. Purpose and Policy

111.1-1. The purpose of this law is to govern the payment of stipends for attendance at General Tribal Council meetings.

111.1-2. It is the policy of the Oneida Nation to pay eligible General Tribal Council members a stipend for attending a General Tribal Council meeting at which a quorum is established and maintained and where official Tribal business is conducted.¹

111.2. Adoption, Amendment, Conflicts

111.2-1. This law was adopted by the Oneida Business Committee by resolution BC-12-10-08-K, amended by resolution BC-02-13-13-E and emergency amended by resolution BC-__-__-__.

111.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

111.2-3. 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.

111.2-4. 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.

111.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

111.3. Definitions

111.3-1. This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “General Tribal Council” means the governing body of the Oneida Nation, which is composed of the qualified voters of the Oneida Nation, as determined by the Constitution of the Oneida Nation.

(b) “Nation” means the Oneida Nation.

111.4. Stipends

111.4-1. Except as provided in section 111.4-3(c) of this law, any member of the Nation who meets the requirements of section 111.4-2 shall receive a stipend in an amount determined by General Tribal Council for attending a General Tribal Council meeting, if a quorum is established.

(a) If a quorum has not been established within fifteen (15) minutes after the published starting time, the meeting shall not be held and no stipend shall be paid.

111.4-2. In order to receive a stipend for attending a General Tribal Council meeting, a person shall:

(a) be a qualified voter, in accordance with the Constitution of the Oneida Nation;

¹August 11, 2007 GTC Directive: “Motion by Madelyn Genskow that a stipend of \$100 be paid to any General Tribal Council member who attends a GTC meeting and is eligible to vote and stays until the end of the meeting effective in calendar year 2008 and for all time, seconded by Nancy Skenandore.”

OBC Consideration of Extension of the General Tribal Council Meeting Stipend Payment Policy
Emergency Amendments Adopted through Resolution BC-04-08-20-A
2020 09 23

(b) except as provided under (1), register no later than fifteen (15) minutes after the published starting time of the meeting by checking in at a registration table, filling out any required forms, and providing a valid Tribal or state issued picture identification;

(1) A person who is physically in line to register for a General Tribal Council meeting within fifteen (15) minutes after the published starting time of the meeting, may receive a stipend for attending a General Tribal Council meeting if he or she registers and meets the other requirements under this section.

(c) be present for the entire meeting, from the time the meeting is called to order until the meeting is adjourned; and

(1) For purposes of this law, a member of the Nation who leaves the meeting area and any related bathroom facilities, as identified by the Office of the Nation's Secretary, is not considered present for the entire meeting.

(d) check out and provide a valid Tribal or state issued picture identification card after the meeting ends.

(1) For purposes of this law, a meeting ends when the meeting is adjourned, the meeting is recessed to a later date, or a quorum is lost.

111.4-3. *Payment.* The stipend payment shall be made by an acceptable distribution process approved by the Accounting Department. Any fees associated with reissuing a payment shall be deducted from a reissued payment.

(a) The Accounting Department shall distribute stipend payments no later than fifteen (15) business days after a General Tribal Council meeting is held.

(b) If a member of the Nation does not receive a stipend payment after meeting the requirements of section 111.4-2, he or she may contact the Enrollment Department to verify his or her eligibility to receive the stipend payment.

(c) *Exception.* The Oneida Business Committee may decide through adoption of a resolution to halt the payment of General Tribal Council meeting stipends to all eligible members for a period of time deemed necessary by the Oneida Business Committee to protect and safeguard the resources and general welfare of the Nation.

111.5. General Tribal Council Meetings

111.5-1. Enrollment Department.

(a) The Enrollment Department shall be responsible for the following at each General Tribal Council meeting:

(1) Conducting check in/out of members of the Nation and verifying voter eligibility.

(2) Verifying mailing address of each member of the Nation.

(3) Providing eligible members of the Nation with a hand stamp, bracelet or other identifier that can be displayed upon request to prove they are eligible to attend the meeting and/or vote during the meeting.

(b) Enrollment Department officials shall be responsible for verifying the information provided by members of the Nation while checking in and out. A Tribal or state issued picture identification card shall be required to verify the identity of the person registering.

(c) The Enrollment Department shall send the relevant information regarding members of the Nation who are eligible to receive a stipend to the Accounting Department as soon as possible

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after the meeting.

111.5-2. If the facility where the meeting is held does not seat at least two thousand five hundred (2,500) people, the Oneida Business Committee shall have the Security Department or other applicable individuals limit meeting attendees to those members of the Nation who are eligible to vote.

111.6. Appeals

111.6-1. Any member of the Nation denied a stipend payment may file an appeal with the Enrollment Department within forty-five (45) days after the meeting for which the meeting stipend was denied. The review shall be conducted by the Enrollment Director or his/her designee. A determination as to whether the member was eligible for the stipend shall be made within five (5) business days of receipt of the appeal.

(a) The determination shall be sent by registered mail (return receipt requested) or delivered in person to the member.

(b) In the event a stipend payment is denied, the determination shall include a statement notifying the member that he or she has fourteen (14) calendar days to file an appeal with the Oneida Trust/Enrollment Committee.

(c) In the event a stipend payment is granted, the determination shall include a statement notifying the member that the Enrollment Department will forward his or her relevant information to the Accounting Department to process the payment.

111.6-2. Any member of the Nation denied a stipend payment after an appeal to the Enrollment Director may appeal the Director's determination to the Oneida Trust/Enrollment Committee. The appeal shall be filed within fourteen (14) calendar days of receipt of the determination. An appeal shall be filed with the Oneida Trust/Enrollment Committee in care of the Enrollment Department. The Enrollment Department shall forward the appeal to the Oneida Trust/Enrollment Committee no later than the next business day.

111.6-3. A quorum of the Oneida Trust/Enrollment Committee shall conduct a hearing of the appeal and issue a determination within forty-five (45) days of the receipt of the member's request for review.

(a) The Oneida Trust/Enrollment Committee determination shall be sent by registered mail (return receipt requested) or delivered in person to the member.

111.6-4. *Payments after an Appeal.*

(a) Within five (5) business days after the Enrollment Director or the Oneida Trust/Enrollment Committee determines that a stipend should have been granted, the Enrollment Department shall notify the Accounting Department of the determination, the name of the member and any additional relevant information needed by the Accounting Department to make the payment.

(b) The Accounting Department shall distribute a stipend payment to the member within fifteen (15) business days from the notification.

111.6-5. The determination of the Oneida Trust/Enrollment Committee shall be final.

End.

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Emergency Extension – BC-05-28-08-C
Permanent Adoption – BC-12-10-08-K
GTC Directive – GTC-11-21-11-A
Emergency Adoption – BC-05-09-12-A
Emergency Extension – BC-10-14-12-B
Adopted – BC-02-13-13-E
Emergency Amended – BC-__-__-__-__

October 2020

| October 2020 | | | | | | |
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| November 2020 | | | | | | |
|---------------|----|----|----|----|----|----|
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| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | | | | | |

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---|---|---|--------|----------|
| Sep 27 | 28 | 29 | 30 | Oct 1 | 2 | 3 |
| 4 | 5 | 6 | 7 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC | 8 | 9 | 10 |
| 11 | 12 | 13 10:00am LOC Work Session: Amendment of Resolution BC-07-26-17-J (Microsoft Teams Meeting) - | 14 | 15 1:30pm LOC Work Session (BC_Conf_Room) - Clorissa N. Santiago | 16 | 17 |
| 18 | 19 | 20 | 21 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 1:30pm LOC Work Session (BC_Conf_Room) - Clorissa N. Santiago | 30 | 31 |