



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
December 16, 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. December 2, 2020 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Community Support Fund Law Amendments (pg. 4)
2. Emergency Management and Homeland Security Law Amendments (pg. 29)

IV. New Submissions

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



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

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

Excused: Marie Summers

Others Present: Kristen M. Hooker, Aliskwet Ellis, Rhiannon Metoxen, Kristal Hill, Ralinda Ninham-Lamberies

I. Call to Order and Approval of the Agenda

David Jordan called the December 2, 2020, Legislative Operating Committee meeting to order at 9:00 a.m.

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

II. Minutes to be Approved

1. November 4, 2020 LOC Meeting Minutes

Motion by Jennifer Webster to approve the November 4, 2020 LOC meeting minutes and forward to the Oneida Business Committee; seconded by Daniel Guzman King; abstention by Kirby Metoxen. Motion carried.

III. Current Business

1. Industrial Hemp Law

Motion by Daniel Guzman King to approve the Industrial Hemp law adoption packet and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Jennifer Webster to approve the resolution titled, "Proclamation of Appreciation" and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

2. Community Support Fund Law Amendments

Motion by Jennifer Webster to accept the Community Support Fund law amendments draft and legislative analysis, and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

IV. New Submissions

1. Nuisance Law

Motion by Daniel Guzman King to deny the request to add the Nuisance Law to the Active Files List and to defer discussion to a LOC work meeting, inviting all relevant parties; seconded by Kirby Metoxen. Motion carried unanimously.



2. Oneida Nation Gaming Ordinance Amendments

Motion by Jennifer Webster to add the Oneida Nation Gaming Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions

VI. Administrative Items

1. E-Poll Results: Approval of the Pandemic Relief Assistance Law Emergency Adoption Packet

Motion by Jennifer Webster to enter into the record the results of the November 23, 2020, e-poll titled, "Approval of the Pandemic Relief Assistance Law Emergency Adoption Packet"; seconded by Kirby Metoxen. Motion carried unanimously.

2. E-Poll Results: Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet

Motion by Kirby Metoxen to enter into the record the results of the November 24, 2020, e-poll titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet"; seconded by Jennifer Webster. Motion carried unanimously.

3. Active Files List Sixty Day Update

Motion by Jennifer Webster to accept the memo titled, "Active Files List Sixty Day Review" and continue the development of the thirty-four legislative items currently on the Active Files List; seconded by Daniel Guzman King. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Kirby Metoxen to adjourn at 9:24 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee
December 16, 2020

Community Support Fund Law Amendments

| | |
|-------------------------------------|-------------------------------|
| Submission Date: 10/7/20 | Public Meeting: N/A |
| LOC Sponsor: David P. Jordan | Emergency Enacted: N/A |

Summary: *On September 2, 2021, the Governmental Services Division Director, on behalf of Economic Support, submitted a request for amendments to be made to the Community Support Fund law to take the requirement for income verification out of the Law, since none of the Community Support Fund Law Rules review income as a basis for program eligibility. The request also identified various potential amendments to the Community Support Fund Law Rule Handbook.*

10/7/20 LOC: Motion by Jennifer Webster to add the Community Support Fund Law Amendments to the Active Files List with David Jordan as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/15/20: *Work Meeting.* Present: Clorissa N. Santiago, Delia Smith, Andrea Frayre, Margaret Kruse. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to read through the Community Support Fund law line by line and discuss any potential amendments that should be made to the law. The Administrative Rulemaking process was also discussed since the Economic Support Department will also be seeking amendments to the Community Support Fund Law Rule Handbook.

10/21/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the draft of suggested amendments by the Economic Support Department.

10/29/20: *Work Meeting.* Present: Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Delia Smith, Andrea Frayre, Margaret Kruse, Kristen Hooker, Rhiannon Metoxen, Kristal Hill, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review with Economic Support issues that the LOC determined during the October 21, 2020, work meeting that they wanted more information and clarity on.

12/2/20 LOC: Motion by Jennifer Webster to accept the Community Support Fund law amendments draft and legislative analysis, and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

12/2/20: *Work Meeting.* Present: Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This

was a work meeting held through Microsoft Teams. The purpose of this work meeting was to answer any questions the LOC may have had regarding the proposed amendments and legislative analysis since the drafting attorney was unable to attend the LOC meeting due to quarantine.

Next Steps:

- Approve Community Support Fund law amendments public comment period packet and forward the Community Support Fund law amendments to a public comment period to be held open until January 13, 2021.

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY January 13, 2021

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings)



Send Public Comments to
LOC@oneidanation.org
Ask Questions here
LOC@oneidanation.org

COMMUNITY SUPPORT FUND LAW AMENDMENTS

The purpose of this law is to assist the greatest number of members of the Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or injury, or emergency event when no other resources for assistance exist.

The Community Support Fund law amendments will:

1. Remove the requirement that security deposit assistance only be available to those members of the Nation who are Wisconsin residents;
2. Remove the requirement that funeral travel expenses is only provided to arrange or attend a funeral for immediate family members outside the state where the applicant resides;
3. Remove the requirement that an applicant provide all household income the last thirty (30) business days immediately prior to the submission of the application; and
4. Expand the time period for an applicant to submit an application from thirty (30) days to forty-five (45) days.

For more proposed amendments to the Community Support Fund law please review the public comment packet at [Oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings).

PUBLIC COMMENT PERIOD CLOSING WEDNESDAY, JANUARY 13, 2021

The Nation's COVID-19 Team issued a declaration on March 27, 2020, titled "*Suspension of Public Meetings under the Legislative Procedures Act.*" This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Although there will be no public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



AMENDMENTS TO THE COMMUNITY SUPPORT 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"> ▪ Include a definition for Fund Operator, which is the Economic Support Services Department, or other area within the Governmental Services Division designated authority over the operation of the Fund; ▪ Revise the definition of “immediate family” to better reflect Oneida families; ▪ Include a definition for a public health emergency; ▪ Include public health emergency as a catastrophic event, catastrophic illness or injury, or emergency event that qualifies an applicant for assistance from the Fund; ▪ Clarify that the Fund may only be used for the waiting period for a Social Security Disability Determination rent and utility assistance up to a maximum of twelve (12) months; ▪ Remove the requirement that security deposit assistance only be available to those members of the Nation who are Wisconsin residents; ▪ Remove the requirement that the amount paid for a security deposit be paid back to the Fund before another security deposit is issued in the future; ▪ Clarify that an applicant must clarify that he or she applied to his or her local Emergency Assistance Program prior to applying for utility assistance from the Fund; ▪ Remove the requirement that funeral travel expenses are only provided to arrange or attend a funeral for immediate family members outside the state where the applicant resides; ▪ Clarify that lodging assistance due to homelessness or for any other reason not related to a catastrophic event or emergency event, insurance deductibles, and home renovations not related to handicap accessibility are not covered by the Fund; ▪ Remove the requirement that an applicant provide all household income the last thirty (30) business days immediately prior to the submission of the application; ▪ Expand the time period for an applicant to submit an application from thirty (30) days to forty-five (45) days; and ▪ Adjust the appeal process to reflect reorganization of the Governmental Services Division. |
| Purpose | To assist the greatest number of members of the Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or injury, or emergency event when no other resources for assistance exist. <i>[1 O.C. 125.1-1]</i> . |
| Affected Entities | Economic Support Services Department |
| Public Meeting | A public comment period will be held open until January 13, 2021. A public meeting will not be held in accordance with the Nation’s COVID-19 Core Decision Making Team’s declaration titled, “ <i>Suspension of Public Meetings under the Legislative Procedures Act.</i> ” |
| Fiscal Impact | A fiscal impact statement has not yet been requested. |

What is the Community Support Fund?

The Community Support Fund is a resource available to members of the Nation which provides financial assistance when a member of the Nation is experiencing a catastrophic event, catastrophic illness or injury, or emergency event. Examples of a catastrophic event, catastrophic illness or injury, or emergency event include:

- | | | |
|--------------------------------------|---------|--------------------------|
| -Death in the immediate family | -Fire | -Tornado |
| -Major medical surgery | -Cancer | -Flood |
| -Injury from motor vehicle accidents | -Stroke | -Public Health Emergency |

Assistance from the Community Support Fund is only available when there is no other financial assistance available, or all other assistance has been exhausted. The Community Support Fund is funded through tribal contribution and has a budget of approximately \$350,000. The Community Support Fund can be used to assist with the following types of expenses:

- | | | |
|--|--|--|
| -Rent or mortgage | -Utility payments | -Medical travel |
| -Funeral travel | -Prescription reimbursement | -Medical bills |
| -Dental related expenses | -Optical related expenses | -Inpatient treatment |
| -Security deposits | -Automobile repairs for medical travel | -Utility disconnections |
| -Family Medical Leave Act wage replacement | -Temporary shelter due to natural disaster | -Furnace & water heater repair and replacement |
| -Medical related equipment, supplies, or furniture | -Shelter during a Social Security Disability Determination | -COBRA insurance payments |

The Community Support Fund Law Rule Handbook provides more information on how a member of the Nation may qualify for each category of assistance of the Community Support Fund and the maximum amount of assistance provided for each category of assistance. The Community Support Fund Law Rule Handbook can be found online in the Oneida Code of Laws.

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. *Background.*** The Community Support Fund law (“the Law”) was first adopted by the Oneida Business Committee on May 15, 1996, for the purpose of assisting the greatest number of members of the Oneida Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or injury, or emergency event when no other resources for assistance exist. [1 O.C. 125.1-1].
- B.** The Law was most recently amended by the Oneida Business Committee on January 11, 2017, through the adoption of resolution BC-01-11-17-B.
- C.** On September 2, 2020, the Governmental Services Division Director, on behalf of the Economic Support Services Department, submitted a request for the Legislative Operating Committee to consider amendments to the Law in an effort to expand the assistance available under the Fund to members of the Nation. The Legislative Operating Committee added the Law to its Active Files List on October 7, 2020.

SECTION 3. CONSULTATION AND OUTREACH

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

- Economic Support Services Department.
- B. The following laws were reviewed in the drafting of this analysis:
 - Administrative Rulemaking law; and
 - Rules of Appellate Procedure.

SECTION 4. PROCESS

- A. The amendments to this Law have followed the process set forth in the Legislative Procedures Act.
 - On September 2, 2020, the Governmental Services Division Director, on behalf of the Economic Support Services Department, submitted a request for the Legislative Operating Committee to consider amendments to the Law.
 - The LOC added the amendments to the Active Files List on October 7, 2020.
 - A draft and legislative analysis for the Law was accepted by the LOC on December 2, 2020.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of these amendments:
 - October 15, 2020: Work meeting with Economic Support Services Department.
 - October 21, 2020: Work meeting with LOC.
 - October 29, 2020: Work meeting with LOC and Economic Support Services Department.
 - December 2, 2020: Work meeting with LOC.
- C. ***COVID-19 Pandemic's Effect on the Legislative Process.*** 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. A public meeting for the proposed amendments to this Law will not be held due to the COVID-19 pandemic, but the submission of written comments will still be permitted.
 - ***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 the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows 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 January 12, 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, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, and BC-12-09-20-D.
 - ***COVID-19 Core Decision Making Team Declarations: Safer at Home.***
 - On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
 - 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.
 - On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the

Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.

- On June 10, 2020, the COVID-19 Core Decision Making 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. This declaration prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit.
- On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.
- *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
 - On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
 - Although a public meeting will not be held on the proposed amendments to the Community Support Fund law, a public comment period will still be held open until January 13, 2021, in accordance with the Legislative Procedures Act and the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

SECTION 5. CONTENTS OF THE LEGISLATION

A. *Definition for Immediate Family.* The proposed amendments to the Law revise the definition for “immediate family.” The Law now defines “immediate family” as an applicant’s husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and any of these relations attained through marriage or legal adoption, as well as a person who has legal responsibility for the applicant, or a person the applicant has legal responsibility of. [1 O.C. 125.3-1(j)]. Previously, “immediate family” was defined as that group of persons who make up a family unit normally defined as husband, wife, children, sister, brother, in-laws, step family, grandparents and grandchildren, and/or a person who has legal responsibility for the applicant. The term “immediate family” is most frequently used in the Law in reference to assistance for funeral travel expenses.

- ***Effect.*** The proposed amendments expand the definition of immediate family to better reflect familial relationships amongst members of the Nation. The Economic Support Services Department made the recommendation to expand this definition based on requests for assistance that have been submitted, in an effort to better meet the needs of members of the Nation.

B. *Public Health Emergency as a Qualification for Assistance.* The proposed amendments to the Law now specify that a public health emergency is a type of catastrophic event or catastrophic illness or injury which qualifies an applicant for assistance. [1 O.C. 125.4-6(f)]. The public health emergency qualification is in addition to the following types of catastrophic events, and catastrophic illnesses or

injuries that were previously specified in the Law: terminally ill, physically challenged or incapacitated, major medical surgery, life threatening, natural disaster, and death in immediate family. [1 O.C. 125.4-6].

- *Effect.* The proposed amendment to the Law provides greater clarification that a public health emergency does qualify as a type of catastrophic event or catastrophic illness or injury a person may apply for assistance for. During the COVID-19 pandemic the Economic Support Services Department did view the Nation's declaration of a Public Health State of Emergency as an emergency event that would qualify a person for assistance, but requested that the Law be clarified to specify this.

C. *Utility and Rent Assistance during Waiting Period for a Social Security Disability Determination.*

The proposed amendments to the Law limit rent and utility assistance from the Fund during a waiting period for a Social Security Disability Determination to a maximum period of twelve (12) months. [1 O.C. 125.6-1(l)]. Previously, the Law provided no limitation on how long a person may receive rent and utility assistance during the waiting period for a Social Security Disability Determination.

- *Effect.* Due to the fact that the Fund is funded entirely by tribal contribution, the proposed amendment to the Law limits the period of time a person may receive rent and utility assistance during a waiting period for a Social Security Disability Determination in an effort to preserve the Fund so assistance can be provided to a greater number of applicants.

D. *Security Deposit Assistance.* The proposed amendments to the Law remove the limitation that security deposit assistance only be provided to members of the Nation who are residents of Wisconsin only. [1 O.C. 125.6-2]. The proposed amendments also remove the provision which states that security deposits are non-transferable, and the requirement that the amount paid for a security deposit shall be paid back to the Fund before another security deposit is issued at any time in the future. [1 O.C. 125.6-2(b)]. The proposed amendments to the Law also remove the statement that multiple consecutive requests may be made.

- *Effect.* The removal of the requirement that security deposit assistance only be provided to members of the Nation that are residents of Wisconsin greatly expands who may be eligible to apply for security deposit assistance. It was unknown to the Economic Support Services Department why security deposit assistance was limited to residents of Wisconsin only, since that was the only type of limitation that had a residency limitation.

E. *Utilities Assistance.* The proposed amendments to the Law added a provision which states that an applicant shall demonstrate that he or she applied to his or her local Energy Assistance Program before applying for assistance from the Fund. [1 O.C. 125.6-3]. Previously, the section of the Law on utilities assistance did not mention this requirement, although the Law generally provided that applicants shall first seek out other resources that can meet the needs of their request. [1 O.C. 125.4-5].

- *Effect.* The inclusion of the statement that an applicant has to demonstrate that he or she applied to his or her local Energy Assistance Program before applying for the Fund provides further clarification on how an applicant can meet the Law's requirement of first seeking out other resources that can meet the needs of their request.

F. *Funeral Travel Expenses.* The proposed amendments to the Law remove the requirement that assistance to arrange or attend a funeral for immediate family members is only allowed when the travel is outside the state where the applicant resides. [1 O.C. 125.6-1(n), 125.6-4].

- *Effect.* The proposed amendments to the Law expand the availability of assistance for funeral travel expenses for members of the Nation. Instead of restricting assistance for funeral travel expenses to

outside the state where the applicant resides, the Economic Support Services Department provided that the corresponding rule in the Community Support Fund Law Rule Handbook will include minimum distance requirements that qualify a person for assistance. The Economic Support Services Department made this recommendation based on the understanding that there may be great distances within the state the applicant resides that would prevent the applicant from attending or arranging a funeral if the applicant did not have access to assistance.

G. *Items not Covered by the Fund.* The proposed amendments to the Law specify additional expenses that are not eligible for assistance from the Fund. [1 O.C. 125.7-1]. The proposed amendments to the Law provide that lodging assistance due to homelessness or for any other reason not related to a catastrophic event or emergency event, insurance deductibles, and home renovations not related to handicap accessibility are not covered by the Fund. [1 O.C. 125.7-1(h)(l)(m)].

- *Effect.* The proposed amendments to the Law provide further clarification as to different expenses that will not be eligible for assistance from the Fund. The Economic Support Services Department requested that extra clarification be provided on expenses included in the proposed amendments because they receive frequent requests for assistance for these expenses which are denied for not meeting the qualifications for assistance from the Fund.

H. *Verification of Household Income.* The proposed amendments to the Law remove the requirement that an applicant provide verification of all household income the last thirty (30) business days immediately prior to the submission of the application. [1 O.C. 125.8-2].

- *Effect.* The proposed amendments to the Law remove the requirement to provide verification of all household income because the Economic Support Services Department determined it was unnecessary to require this information when there are no income requirements to qualify an applicant for assistance from the Fund.

I. *Time Period for Submission of Applications.* The proposed amendments to the Law extend the time period to submit an application for assistance to forty-five (45) days after a catastrophic event, catastrophic illness or injury, or emergency event. [1 O.C. 125.8-5]. Previously, the Law required that all applications for assistance be submitted within thirty (30) business days of a catastrophic event, catastrophic illness or injury, or emergency event.

- *Effect.* The time period to submit an application for assistance from the Fund was extended an additional fifteen (15) business days by the proposed amendments to the Law. The Legislative Operating Committee proposed this amendment to the Law based on the understanding that when a person is experiencing a catastrophic event, catastrophic illness or injury, or emergency event it may be more difficult for the person to collect the necessary supporting documentation and submit an application. The Legislative Operating Committee wanted to ensure that the Law provides grace and flexibility to an applicant as they navigate through the catastrophic event, catastrophic illness or injury, or emergency event.

J. *Appeals.* The proposed amendments to the Law adjust the appeal process to reflect the reorganization of the Governmental Services Division. The Law provides that a person may appeal the decision of the case manager to the director of the Fund Operator. [1 O.C. 125.9-2]. A person may then appeal the decision of the Fund Operator to the Governmental Services Division Director. [1 O.C. 125.9-3]. And a person then may further appeal the decision of the Governmental Services Division Director by filing a complaint with the Trial Court. [1 O.C. 125.9-4]. Previously, the Law provided that an appeal of the case manager's decision could be made to the Program Director, which is the same as the Director of the Fund Operator. An appeal of the Program Director's decision could then be made to the Area

Manager. And then an appeal of the Area Manager's decision could be made to the Oneida Court of Appeals.

- *Effect.* The proposed amendments to the Law amend the appeal process in two (2) ways. First, an appeal of the Director of the Fund Operator's decision can now be made to the Governmental Services Division Director instead of the Area Manager as formally drafted because the Governmental Services Division has been reorganized since the onset of the COVID-19 pandemic and no longer has Area Managers. Second, an appeal of the Governmental Services Division Director's decision can be made by filing a complaint with the Trial Court. Previously, appeals were made directly to the Oneida Court of Appeals. The Rules of Appellate Procedure provide that any party to a civil action, who is aggrieved by a final judgment or order of the Trial Court or original hearing body, may appeal to the Court of Appeals. [8 O.C. 805.5-1]. An original hearing body is defined as the administrative agency decision-making panel which heard a contested case under the Administrative Procedures Act, or similar law, and from which appeal is permitted by law. [8 O.C. 805.3-1(s)]. Although the Law previously permitted appeals of the Area Manager to be made directly to the Court of Appeals, the Area Manager was not an administrative agency decision making panel which heard contested cases under the Administrative Procedures Act or similar law, and therefore it is more appropriate for the appeal to be filed as a complaint with the Trial Court instead of directly to the Court of Appeals.

K. Minor Drafting Changes. Minor drafting and formatting changes have been made throughout the Law for clarity.

SECTION 6. EXISTING LEGISLATION

A. References to other Laws of the Nation. The following laws of the Nation are referenced in this Law:

- *Administrative Rulemaking law.* The Administrative Rulemaking law provides a process for the adoption and amendments of administrative rules. [1 O.C. 106.1-1].
 - This Law provides that the Fund Operator shall promulgate rules for the administration of the Fund which shall include the list of categories the Fund covers and a cap that sets the amount of assistance per event/per household, except for funeral expenses which shall be set per event/per person. [1 O.C. 125.4-1(a)(1)].
 - This Law provides that the rules promulgated by the Fund Operator may include additional items not listed in section 125.6 of the Law, as long as the rule does not conflict with any provision of the Law. [1 O.C. 125.4-1(a)(2)].

SECTION 7. OTHER CONSIDERATIONS

A. Community Support Fund Law Rule Handbook. The Law requires that the Fund Operator promulgate rules for the administration of the Fund which shall include the list of categories the Fund covers and a cap that sets the amount of assistance. [1 O.C. 125.4-1]. After amendments to the Law were adopted by the Oneida Business Committee through resolution BC-01-11-17-B, the Community Support Fund Law Rule Handbook was then adopted by the Oneida Business Committee on January 24, 2018. Upon the adoption of the proposed amendments to the Law the Economic Support Services Department will need to make amendments to the Community Support Fund Law Rule Handbook in accordance with the Administrative Rulemaking law. The amendments to the Community Support Fund Law Rule

Handbook would make revisions necessary to comply with the Law and addresses additional revisions desired by the Economic Support Services Department.

- *Conclusion.* It would be best practice for the Legislative Operating Committee to communicate and work with the Economic Support Services Department to ensure the certification and adoption of the Community Support Fund Law Rule Handbook amendments can coincide as closely as possible with the adoption of the amendments to the Community Support Fund law.

B. Use of the Community Support Fund. In an effort to provide a better understanding on how the Community Support Fund is utilized by the membership, the following information was provided by the Economic Support Services Department which demonstrates how many times a year the category of the Fund was utilized, as well as the total benefit amount provided for each category of the Fund from January 1, 2020 until November 1, 2020.

| Category of Assistance from Community Support Fund | Times Fund Utilized in 2018 | Times Fund Utilized in 2019 | Times Fund Utilized in 2020 | Total Benefit Amount Provided |
|--|-----------------------------|-----------------------------|-----------------------------|-------------------------------|
| Appliance Repair/Replacement | 6 | 9 | 11 | \$37,851.63 |
| Auto Repairs | 30 | 8 | 14 | \$23,285.29 |
| Catastrophic Rent | 210 | 88 | 133 | \$194,499.62 |
| COBRA Insurance Payments | 0 | 0 | 1 | \$391.38 |
| Dental Expenses | 7 | 3 | 6 | \$6,965.00 |
| Fire Recovery/Natural Disaster | 5 | 6 | 0 | \$1,811.64 |
| Funeral Travel | 30 | 6 | 11 | \$15,254.49 |
| Home Renovations | 1 | 0 | 0 | \$200.00 |
| Inpatient Treatment | 1 | 2 | 3 | \$15,735.80 |
| Medical Bill Payments | 47 | 25 | 20 | \$115,864.17 |
| Medical Travel | 155 | 68 | 18 | \$19,046.61 |
| Medical Related Equipment/Service | 10 | 2 | 16 | \$21,539.77 |
| Optical Expenses | 9 | 2 | 3 | \$2,084.50 |
| Prescriptions | 5 | 2 | 0 | \$1,375.60 |
| Security Deposit | 19 | 9 | 9 | \$16,630.00 |
| SSD Determination Rent | 88 | 63 | 18 | \$68,283.36 |
| SSD Determination Utility | 27 | 25 | 4 | \$5,643.56 |
| Utilities | 82 | 31 | 18 | \$21,434.57 |
| FMLA Wage Replacement | 21 | 15 | 5 | \$14,700.00 |

**Data provided by the Economic Support Services Department on November 24, 2020.*

C. Fiscal Impact. A fiscal impact statement of the proposed amendments to the Law will have to be requested. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, “Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- *Conclusion.* The Legislative Operating Committee will have to determine which entity is best suited to complete a fiscal impact statement, and direct that a fiscal impact statement be completed.

Title 1. Government and Finances – Chapter 125**COMMUNITY SUPPORT FUND****Kaya'takenhásla tsi' niyukwana'táya***It is helpful where our community lays***COMMUNITY SUPPORT FUND**

125.1. Purpose and Policy

125.2. Adoption, Amendment, Repeal

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125.8. Application Requirements

125.9. Decision and Appeal**125.1. Purpose and Policy**

125.1-1. *Purpose.* The purpose of this law is to assist the greatest number of members of the ~~Oneida~~ Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness, or injury, or emergency event when no other resources for assistance exist.

125.1-2. *Policy.* It is the policy of the ~~Oneida~~ Nation to assist ~~their~~its people in a time of need after a catastrophic event, catastrophic illness, or injury, or emergency event, when there is no other assistance available or all other assistance has been exhausted.

125.2. Adoption, Amendment, Repeal

125.2-1. This law was adopted by the Oneida Business Committee by resolution BC-~~505~~-15-96-A and amended by resolutions BC-01-08-97-G, BC-12-~~11~~-13-D-~~and~~, BC-01-11-17-B- and BC-
- - -.

125.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

125.2-3. 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.

125.2-4. 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.

125.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

125.3. Definitions

125.3-1. 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) "Applicant" means the subject of the application for assistance.

(b) "Business ~~days~~day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding ~~Nation~~-holidays of the Nation.

(c) "Case manager" means an employee within the Fund Operator responsible for administering Fund benefits.

(d) "Catastrophic event" means a natural or man-made incident, which results in substantial damage or loss requiring major financial resources to repair or recover ~~(i.e.,~~ including, but not limited to, a house fire, tornado, flood, or other disaster)).

(e) "Catastrophic illness or injury" means a serious debilitating illness, injury, impairment, or physical or mental condition that involves:

(1) In-patient care;

(2) A period of continuing treatment due to a chronic serious health condition ~~(such~~

as, including, but not limited to, chemotherapy~~/,~~ radiation, dialysis, and daily~~/ or~~ weekly therapy resulting from trauma~~, etc.);~~;

(3) A period of illness or injury that is long-term due to a condition for which treatment may be ineffective~~(, including, but not limited to,~~ stroke~~, or~~ terminal disease~~, etc.);~~;

(4) Multiple treatments either for restorative surgery after an accident or other injury, or for a chronic condition~~-(i.e., including, but not limited to,~~ cancer or kidney disease~~);~~;

(f) “Emergency event” means a situation that poses an immediate risk to health, life, safety, property, or environment. Emergencies require urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

(g) “Emergency medical travel” means an unexpected serious health situation or occurrence, requiring the immediate presence of immediate family~~-(i.e., including, but not limited to,~~ end of life situation~~, or~~ life support~~, etc.);~~;

(h) “Fund” means the Community Support Fund.

(i) “Fund Operator” means the Economic Support Services Department, or other area within the Governmental Services Division designated authority over the operation of the Fund.

(j) “Immediate family” means that group of persons who make up a family unit normally defined as an applicant’s husband, wife, children, sister, mother, father, son, daughter, brother, in-laws, step family, grandparents, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and grandchildren, and/or a person any of these relations attained through marriage or legal adoption, as well as a person who has legal responsibility for the applicant, or a person the applicant has legal responsibility of.

(k) “Legal guardian” means a person who has the legal authority to care for the personal and property interests of another person granted through Court order.

(l) “Legal responsibility” means specific duties imposed upon a person to care or provide for another including liability for personal obligations as granted through a Power of Attorney or Court order.

(m) “Major medical surgery” means a surgical procedure that carries a degree of risk to the patient’s life, or the potential for severe disability if something goes wrong during surgery. It is a surgical procedure that usually requires a patient to be put under general anesthesia and given respiratory assistance because he or she cannot breathe independently.

(n) “Nation” means the Oneida Nation.

(o) “Public health emergency” means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

(p) “Rule” means a set of requirements enacted in accordance with the Administrative Rulemaking law.

~~(e) "Tribal" means the Oneida Nation.~~

~~-~~

(q) "Trial Court" means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

125.4. Responsibilities, Eligibility and Qualifications

~~125.4-1. The Social Services Area of the Governmental Services Division shall be responsible for operation~~Responsibilities of the Fund, but may designate Operator. The Fund Operator shall have the following responsibilities in regard to the operation of the Fund ~~to:~~

~~(a department within its control.~~

(a) Administrative Rulemaking. ~~The operators of the Fund~~ Operator shall promulgate rules, for the administration of the Fund ~~that are consistent with this law. The rules which:~~

(1) ~~shall include the list of categories the Fund covers and a cap that sets the amount of assistance per event/per household, except for funeral expenses which shall be set per event/per person;~~ and

(2) ~~may include additional items not listed in section 125.6, as long as the rule does not conflict with~~ any provision of this law.

~~(b)~~ (b) Communication and Education. The Fund Operator shall ensure that the Nation's membership is informed of what assistance is available through the Fund, how to apply for assistance, and who is eligible for assistance.

125.4-2. Reporting Requirements. The Governmental Services Division Director shall report quarterly to the Oneida Business Committee. The report shall include, but is not limited to, the amount of funds paid out under each category of the Fund.

~~(c) The Social Services Area or designee shall ensure that the Nation's membership is informed of what assistance is available through the Fund, how to apply for assistance, and who is eligible for assistance.~~

~~125.4-23.~~ Eligibility for assistance provided under the Fund is reserved for enrolled members of the Nation. Applications may be made by a non-member on the behalf of an enrolled member of the Nation, provided the requested funds will benefit the member only and the non-member has one (1) of the following relationships to the applicant:

- (a) Is a parent of the applicant;
- (b) Is the legal guardian of the applicant; or
- (c) Has legal responsibility for the applicant.

~~125.4-34.~~ Residency within the state of Wisconsin is not a prerequisite for assistance, ~~except for requests for a security deposit in accordance with section 125.6-2~~ from the Fund.

~~125.4-45.~~ The Fund is a fund of last resort and provides assistance when there is no other financial assistance available or all other assistance has been exhausted. Applicants shall first seek out other resources that can meet the needs of their request. ~~Proof of requesting assistance from other sources shall be provided with the application.~~

~~125.4-56.~~ The following types of catastrophic events, and catastrophic illnesses or injuries qualify an applicant for assistance:

- (a) Terminally ill;
- (b) Physically challenged or incapacitated;
- (c) Major medical surgery;

(d) Life threatening ~~(i.e., including, but not limited to,~~ cancer, AIDS, stroke, and disabling injuries due to motor vehicle accident~~, etc.);~~;

(e) ~~—~~ Natural disaster ~~(i.e., including, but not limited to,~~ tornado, fire, flood~~, etc.);~~;

(f) Public health emergency; and

(fg) Death in immediate family as identified in section 125.6-1(n);

125.4-~~6~~7. Assistance may be denied or limited for applicants who have elected not to be covered by employer benefits such as disability or health insurance.

125.4-~~7~~8. Except as otherwise provided in section 125.6-4, all payments shall be provided directly to the service provider.

125.4-~~8~~9. Assistance available under the Fund is subject to change according to fiscal year funding levels.

125.4-~~9~~10. Oneida programs and enterprises are not eligible for these funds.

125.5. Priorities for Consideration

125.5-1. The case manager shall determine the level of assistance to be provided based on:

(a) Severity of the catastrophic event, catastrophic illness, or injury, or emergency event;

(b) Cost ~~(, usual and customary fees);~~;

(c) Amount of time elapsed since the catastrophic event, catastrophic illness, or injury, or emergency event occurred; and

(d) The Fund's appropriate promulgated rules.

125.5-2. The case manager shall assess each individual case, prioritize, and assist with immediate needs. Priorities are as follows:

(a) Life-threatening emergency requests;

(b) Emergency medical travel; and

(c) Other needs.

125.6. Items Covered by the Fund

125.6-1. Requests for assistance from the Fund shall be tied to or be a result of a catastrophic event, catastrophic illness, or injury, or emergency event. Upon verification of a catastrophic event, catastrophic illness, or injury, or emergency event, the Fund may be used for the following:

(a) COBRA Insurance Payments;

(b) Prescriptions not available through an Indian Health Services clinic;

(c) Medical transportation ~~/ or~~ emergency medical travel including vehicle repairs;

(d) Medical-related equipment, supplies, or furniture;

(e) Medical bills ~~(, including dental, optical, and hospital);~~ not covered by insurance;

(f) Mortgage payments and rent payments ~~(including security deposits);~~ where no other resources exist ~~in accordance with section 125.6-2;~~

(g) Utility disconnections ~~in accordance with section 125.6-3;~~

(h) Inpatient Treatment ~~(, with a limit of once per lifetime);~~;

(i) Fire recovery ~~/ and~~ natural disaster assistance;

(j) Home renovations required for handicap accessibility;

(k) Family Medical Leave Act wage replacement;

(l) Waiting period for a Social Security Disability Determination rent and utility assistance up to a maximum of twelve (12) months;

(m) Appliance repair for essential appliances ~~as defined in the rules which the Fund operator shall develop;~~ and/or

(n) Travel expenses to arrange or attend a funeral for immediate family members ~~outside the state where an applicant resides, in accordance with section 125.6-4.~~

125.6-2. ~~Security deposit~~ Deposit. The Fund shall only provide assistance for a security deposit when it is tied to or a result of a catastrophic event, catastrophic illness or injury, or emergency event, on an emergency basis which shall include, but is not limited to, pending eviction and homelessness. ~~Security deposit assistance is limited to Tribal members who are Wisconsin residents only.~~

(a) The applicant shall demonstrate the ability to fulfill the terms of the rental lease. The operators of the Fund shall not co-sign any lease.

~~(b) Security deposits are non-transferable and the amount paid for a security deposit shall be paid back to the Fund before another security deposit is issued at any time in the future.~~

~~(c)~~ (b) Only one (1) request per household shall be considered; ~~multiple consecutive requests may be made.~~

125.6-3. *Utilities*. Assistance for the payment of utilities shall only be allowed once every two (2) years by the person listed as responsible to pay with the utility company. -An applicant shall demonstrate that he or she applied to his or her local Energy Assistance Program before applying for assistance from the Fund.

125.6-4. ~~Funeral expenses~~ Travel Expenses. An applicant may receive assistance with travel expenses, up to a maximum amount of five hundred dollars (\$500), to arrange or attend a funeral for immediate family members ~~outside the state where the applicant resides.~~ Unless the rules allow for direct payment to the travel provider by the Fund Operator, such assistance is required to be in the form of reimbursement, provided that mileage assistance shall always be in the form of reimbursement.

125.7. Items not Covered by the Fund

125.7-1. The Fund shall not be used to cover payments that are not for a catastrophic event, catastrophic illness, or injury, or emergency event as defined above. The following is a list of items not covered by the Fund; however, this is not an exhaustive list:

(a) Car payments;

(b) Taxes;

(c) Credit card or charge accounts;

(d) Commercial loans;

(e) Defaults, fines, or bankruptcy charges;

(f) Expenses not tied to basic needs ~~(such as~~ cable, internet, memberships, etc.); ;

(g) Legal fees, court costs, judgments;

~~(h) Homeless lodging assistance;~~

(h) Lodging assistance due to homelessness, or for any other reason not related to a catastrophic event or emergency event;

(i) Health membership fees;

(j) Food and personal care items;

(k) Stabilization rent assistance;

(l) Insurance deductibles;

(m) Home renovations not related to handicap accessibility; and

~~(n)~~ Department of Corrections re-entry assistance.

125.7-2. Benefits may be denied or limited if evidence is found regarding the applicant as to the following:

- 222 (a) The catastrophic event, catastrophic illness, or injury or emergency event is the result
223 of a violation of the law as proven by a citation or criminal conviction;
224 (b) The applicant or others in the household benefiting from assistance from the Fund are
225 non-compliant with the requirements of other Nation programs, policies or laws; and/or
226 (c) The applicant or others in the household benefiting from assistance from the Fund are
227 non-compliant with the requirements of the Fund.

228 125.7-3. When a decision is made to approve, deny, or limit benefits, the case manager shall
229 provide an explanation of the decision in writing to the applicant with a copy placed in the
230 applicant's file.

231
232 **125.8. Application Requirements**

233 125.8-1. To be considered for assistance and before receiving assistance the applicant shall
234 complete the full application process. All applicants shall cooperate with the case manager to
235 assist the case manager in comprehensively addressing the needs of the applicant(s). Every
236 application shall contain a space for the applicant to identify a preferred method of contact. This
237 shall be the primary contact method. Case managers shall follow up every contact with written
238 correspondence, in order to make responses to the applicant in a timely manner so as to meet the
239 applicant's needs.

240 125.8-2. Supporting documentation is required in all cases. The applicant is responsible to
241 provide all documentation requested by the case manager. No assistance may be provided without
242 sufficient documentation of:

- 243 (a) The catastrophic event, catastrophic illness, or injury, or emergency event;
244 (b) Proof that the applicant sought assistance from other agencies with an explanation of
245 benefits received or refusal of assistance by the other agencies;
246 (c) Enrollment in the Nation; and
247 ~~(d) All household income the last thirty (30) business days immediately prior to the~~
248 ~~submission of the application; and~~
249 ~~(e)(d)~~ Status of employment which shall include the following as applicable:
250 (1) Leave of absence paperwork;
251 (2) Balance of personal and vacation time accumulation; and
252 (3) Disability insurance or workmen's compensation coverage.

253 125.8-3. Documentation includes, but is not limited to:

- 254 (a) Medical reports;
255 (b) Bills or statements;
256 (c) Estimates;
257 (d) Letters;
258 (e) Police or fire reports;
259 (f) Obituary or formal notice of death;
260 (g) Check stubs;
261 (h) Pictures or photographs;
262 (i) Applications for assistance from other agencies; and/or
263 (j) Approval of assistance or denial of assistance letters from other agencies.

264 125.8-4. Requests submitted without supporting documentation shall be kept on file for thirty
265 (30) business days.

- 266 (a) The case manager shall request additional information be provided when an application
267 contains insufficient information to make an informed decision.

(b) Applicants may deliver, scan, fax, mail, or e-mail additional requested information.

(c) Failure to submit the requested information within the thirty (30) business days shall result in closing the application file, with no further action taken in regard to that application.

(d) Applicants shall be sent a notice that the file has been closed and reason(s) for the file being closed.

(e) After the file is closed, the applicant shall start the application process over again in order to be considered for assistance from the Fund. However, no applicant may re-apply for the same catastrophic event, catastrophic illness, or injury, or emergency event more than the limit stated within this law or the Fund's rules.

125.8-5. Applications for assistance shall be made within a reasonable time period, not to exceed ~~thirty (30)~~ forty-five (45) business days of a catastrophic event ~~or, catastrophic illness, or injury,~~ or emergency event. Applications made after ~~thirty (30)~~ forty-five (45) business days shall not be considered.

125.9. Decision and Appeal

125.9-1. *Initial Decision.* The Fund Operator shall include in the Fund rules a timeline for which an initial decision is required following the submission of a complete application. Such timeline shall include available extensions for circumstances wherein the applicant has a determination of award ~~or~~ coverage pending with another support ~~or~~ assistance resource.

125.9-2. ~~*Program Appeal to the Director*~~ *Appeal of the Fund Operator.* An appeal of the case manager's decision shall be requested in writing to the ~~Program Director~~ director of the Fund Operator within ten (10) business days after receipt of notice of the initial decision. ~~Within ten (10) business days after receiving the appeal, the Program Director~~ The director of the Fund Operator shall provide the applicant with notice of his or her decision on the matter— within ten (10) business days after receiving the appeal.

125.9-3. ~~*Area Manager Appeal*~~ *Appeal to the Governmental Services Division Director.* An appeal of the ~~Program Director's~~ of the director of the Fund Operator shall be requested in writing to the ~~Area Manager~~ Governmental Services Division Director within ten (10) business days after receipt of notice of the ~~Program Director's~~ director of the Fund Operator's decision. ~~Within ten (10) business days after receiving the appeal, the Area Manager~~ The Governmental Services Division Director shall provide the applicant with notice of his or her decision on the matter— within ten (10) business days after receiving the appeal.

125.9-4. *Oneida Judiciary Appeal.* An applicant may appeal a decision of the ~~Area Manager to the Oneida Court of Appeals in accordance~~ Governmental Services Division Director by filing a complaint with the ~~Rules of Appellate Procedure~~ Trial Court.

End.

Adopted - BC-~~505~~-15-96-A

Amended - BC-~~1801-08~~-97-G

Amended - BC-12-11-13-D

Amended - BC-01-11-17-B

Amended – BC- - - -

Title 1. Government and Finances – Chapter 125**Kaya'takenhásla tsi' niyukwana'táya***It is helpful where our community lays***COMMUNITY SUPPORT FUND**

125.1. Purpose and Policy

125.2. Adoption, Amendment, Repeal

125.3. Definitions

125.4. Responsibilities, Eligibility and Qualifications

125.5. Priorities for Consideration

125.6. Items Covered by the Fund

125.7. Items not Covered by the Fund

125.8. Application Requirements

125.9. Decision and Appeal

125.1. Purpose and Policy

125.1-1. *Purpose.* The purpose of this law is to assist the greatest number of members of the Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or injury, or emergency event when no other resources for assistance exist.

125.1-2. *Policy.* It is the policy of the Nation to assist its people in a time of need after a catastrophic event, catastrophic illness or injury, or emergency event, when there is no other assistance available or all other assistance has been exhausted.

125.2. Adoption, Amendment, Repeal

125.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-15-96-A and amended by resolutions BC-01-08-97-G, BC-12-11-13-D, BC-01-11-17-B and BC-__-__-__.

125.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

125.2-3. 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.

125.2-4. 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.

125.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

125.3. Definitions

125.3-1. 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) "Applicant" means the subject of the application for assistance.

(b) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays of the Nation.

(c) "Case manager" means an employee within the Fund Operator responsible for administering Fund benefits.

(d) "Catastrophic event" means a natural or man-made incident, which results in substantial damage or loss requiring major financial resources to repair or recover, including, but not limited to, a house fire, tornado, flood, or other disaster.

(e) "Catastrophic illness or injury" means a serious debilitating illness, injury, impairment, or physical or mental condition that involves:

(1) In-patient care;

(2) A period of continuing treatment due to a chronic serious health condition, including, but not limited to, chemotherapy, radiation, dialysis, and daily or weekly

therapy resulting from trauma;

(3) A period of illness or injury that is long-term due to a condition for which treatment may be ineffective, including, but not limited to, stroke or terminal disease; or

(4) Multiple treatments either for restorative surgery after an accident or other injury, or for a chronic condition, including, but not limited to, cancer or kidney disease.

(f) “Emergency event” means a situation that poses an immediate risk to health, life, safety, property, or environment. Emergencies require urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

(g) “Emergency medical travel” means an unexpected serious health situation or occurrence, requiring the immediate presence of immediate family, including, but not limited to, end of life situation or life support.

(h) “Fund” means the Community Support Fund.

(i) “Fund Operator” means the Economic Support Services Department, or other area within the Governmental Services Division designated authority over the operation of the Fund.

(j) “Immediate family” means an applicant’s husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and any of these relations attained through marriage or legal adoption, as well as a person who has legal responsibility for the applicant, or a person the applicant has legal responsibility of.

(k) “Legal guardian” means a person who has the legal authority to care for the personal and property interests of another person granted through Court order.

(l) “Legal responsibility” means specific duties imposed upon a person to care or provide for another including liability for personal obligations as granted through a Power of Attorney or Court order.

(m) “Major medical surgery” means a surgical procedure that carries a degree of risk to the patient’s life, or the potential for severe disability if something goes wrong during surgery. It is a surgical procedure that usually requires a patient to be put under general anesthesia and given respiratory assistance because he or she cannot breathe independently.

(n) “Nation” means the Oneida Nation.

(o) “Public health emergency” means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

(p) “Rule” means a set of requirements enacted in accordance with the Administrative Rulemaking law.

(q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities

of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

125.4. Responsibilities, Eligibility and Qualifications

125.4-1. *Responsibilities of the Fund Operator.* The Fund Operator shall have the following responsibilities in regard to the operation of the Fund:

(a) *Administrative Rulemaking.* The Fund Operator shall promulgate rules for the administration of the Fund which:

(1) shall include the list of categories the Fund covers and a cap that sets the amount of assistance per event/per household, except for funeral expenses which shall be set per event/per person; and

(2) may include additional items not listed in section 125.6, as long as the rule does not conflict with any provision of this law.

(b) *Communication and Education.* The Fund Operator shall ensure that the Nation's membership is informed of what assistance is available through the Fund, how to apply for assistance, and who is eligible for assistance.

125.4-2. *Reporting Requirements.* The Governmental Services Division Director shall report quarterly to the Oneida Business Committee. The report shall include, but is not limited to, the amount of funds paid out under each category of the Fund.

125.4-3. Eligibility for assistance provided under the Fund is reserved for enrolled members of the Nation. Applications may be made by a non-member on the behalf of an enrolled member of the Nation, provided the requested funds will benefit the member only and the non-member has one (1) of the following relationships to the applicant:

(a) Is a parent of the applicant;

(b) Is the legal guardian of the applicant; or

(c) Has legal responsibility for the applicant.

125.4-4. Residency within the state of Wisconsin is not a prerequisite for assistance from the Fund.

125.4-5. The Fund is a fund of last resort and provides assistance when there is no other financial assistance available or all other assistance has been exhausted. Applicants shall first seek out other resources that can meet the needs of their request. Proof of requesting assistance from other sources shall be provided with the application.

125.4-6. The following types of catastrophic events, and catastrophic illnesses or injuries qualify an applicant for assistance:

(a) Terminally ill;

(b) Physically challenged or incapacitated;

(c) Major medical surgery;

(d) Life threatening, including, but not limited to, cancer, AIDS, stroke, and disabling injuries due to motor vehicle accident;

(e) Natural disaster, including, but not limited to, tornado, fire, flood;

(f) Public health emergency; and

(g) Death in immediate family.

125.4-7. Assistance may be denied or limited for applicants who have elected not to be covered by employer benefits such as disability or health insurance.

125.4-8. Except as otherwise provided in section 125.6-4, all payments shall be provided directly to the service provider.

125.4-9. Assistance available under the Fund is subject to change according to fiscal year funding

levels.

125.4-10. Oneida programs and enterprises are not eligible for these funds.

125.5. Priorities for Consideration

125.5-1. The case manager shall determine the level of assistance to be provided based on:

- (a) Severity of the catastrophic event, catastrophic illness or injury, or emergency event;
- (b) Cost, usual and customary fees;
- (c) Amount of time elapsed since the catastrophic event, catastrophic illness or injury, or emergency event occurred; and
- (d) The Fund's appropriate promulgated rules.

125.5-2. The case manager shall assess each individual case, prioritize, and assist with immediate needs. Priorities are as follows:

- (a) Life-threatening emergency requests;
- (b) Emergency medical travel; and
- (c) Other needs.

125.6. Items Covered by the Fund

125.6-1. Requests for assistance from the Fund shall be tied to or be a result of a catastrophic event, catastrophic illness or injury, or emergency event. Upon verification of a catastrophic event, catastrophic illness or injury, or emergency event, the Fund may be used for the following:

- (a) COBRA Insurance Payments;
- (b) Prescriptions not available through an Indian Health Services clinic;
- (c) Medical transportation or emergency medical travel including vehicle repairs;
- (d) Medical-related equipment, supplies, or furniture;
- (e) Medical bills, including dental, optical, and hospital, not covered by insurance;
- (f) Mortgage payments and rent payments including security deposits, where no other resources exist;
- (g) Utility disconnections;
- (h) Inpatient Treatment, with a limit of once per lifetime;
- (i) Fire recovery and natural disaster assistance;
- (j) Home renovations required for handicap accessibility;
- (k) Family Medical Leave Act wage replacement;
- (l) Waiting period for a Social Security Disability Determination rent and utility assistance up to a maximum of twelve (12) months;
- (m) Appliance repair for essential appliances; and/or
- (n) Travel expenses to arrange or attend a funeral for immediate family members.

125.6-2. *Security Deposit.* The Fund shall only provide assistance for a security deposit when it is tied to or a result of a catastrophic event, catastrophic illness or injury, or emergency event, on an emergency basis which shall include, but is not limited to, pending eviction and homelessness.

- (a) The applicant shall demonstrate the ability to fulfill the terms of the rental lease. The operators of the Fund shall not co-sign any lease.
- (b) Only one (1) request per household shall be considered.

125.6-3. *Utilities.* Assistance for the payment of utilities shall only be allowed once every two (2) years by the person listed as responsible to pay with the utility company. An applicant shall demonstrate that he or she applied to his or her local Energy Assistance Program before applying for assistance from the Fund.

125.6-4. *Funeral Travel Expenses*. An applicant may receive assistance with travel expenses, up to a maximum amount of five hundred dollars (\$500), to arrange or attend a funeral for immediate family members. Unless the rules allow for direct payment to the travel provider by the Fund Operator, such assistance is required to be in the form of reimbursement, provided that mileage assistance shall always be in the form of reimbursement.

125.7. Items not Covered by the Fund

125.7-1. The Fund shall not be used to cover payments that are not for a catastrophic event, catastrophic illness or injury, or emergency event as defined above. The following is a list of items not covered by the Fund; however, this is not an exhaustive list:

- (a) Car payments;
- (b) Taxes;
- (c) Credit card or charge accounts;
- (d) Commercial loans;
- (e) Defaults, fines, or bankruptcy charges;
- (f) Expenses not tied to basic needs such as cable, internet, memberships, etc.;
- (g) Legal fees, court costs, judgments;
- (h) Lodging assistance due to homelessness, or for any other reason not related to a catastrophic event or emergency event;
- (i) Health membership fees;
- (j) Food and personal care items;
- (k) Stabilization rent assistance;
- (l) Insurance deductibles;
- (m) Home renovations not related to handicap accessibility; and
- (n) Department of Corrections re-entry assistance.

125.7-2. Benefits may be denied or limited if evidence is found regarding the applicant as to the following:

- (a) The catastrophic event, catastrophic illness or injury or emergency event is the result of a violation of the law as proven by a citation or criminal conviction;
- (b) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of other Nation programs, policies or laws; and/or
- (c) The applicant or others in the household benefiting from assistance from the Fund are non-compliant with the requirements of the Fund.

125.7-3. When a decision is made to approve, deny, or limit benefits, the case manager shall provide an explanation of the decision in writing to the applicant with a copy placed in the applicant's file.

125.8. Application Requirements

125.8-1. To be considered for assistance and before receiving assistance the applicant shall complete the full application process. All applicants shall cooperate with the case manager to assist the case manager in comprehensively addressing the needs of the applicant(s). Every application shall contain a space for the applicant to identify a preferred method of contact. This shall be the primary contact method. Case managers shall follow up every contact with written correspondence, in order to make responses to the applicant in a timely manner so as to meet the applicant's needs.

125.8-2. Supporting documentation is required in all cases. The applicant is responsible to

provide all documentation requested by the case manager. No assistance may be provided without sufficient documentation of:

- (a) The catastrophic event, catastrophic illness or injury, or emergency event;
- (b) Proof that the applicant sought assistance from other agencies with an explanation of benefits received or refusal of assistance by the other agencies;
- (c) Enrollment in the Nation; and
- (d) Status of employment which shall include the following as applicable:
 - (1) Leave of absence paperwork;
 - (2) Balance of personal and vacation time accumulation; and
 - (3) Disability insurance or workmen's compensation coverage.

125.8-3. Documentation includes, but is not limited to:

- (a) Medical reports;
- (b) Bills or statements;
- (c) Estimates;
- (d) Letters;
- (e) Police or fire reports;
- (f) Obituary or formal notice of death;
- (g) Check stubs;
- (h) Pictures or photographs;
- (i) Applications for assistance from other agencies; and/or
- (j) Approval of assistance or denial of assistance letters from other agencies.

125.8-4. Requests submitted without supporting documentation shall be kept on file for thirty (30) business days.

- (a) The case manager shall request additional information be provided when an application contains insufficient information to make an informed decision.
- (b) Applicants may deliver, scan, fax, mail, or e-mail additional requested information.
- (c) Failure to submit the requested information within the thirty (30) business days shall result in closing the application file, with no further action taken in regard to that application.
- (d) Applicants shall be sent a notice that the file has been closed and reason(s) for the file being closed.
- (e) After the file is closed, the applicant shall start the application process over again in order to be considered for assistance from the Fund. However, no applicant may re-apply for the same catastrophic event, catastrophic illness or injury, or emergency event more than the limit stated within this law or the Fund's rules.

125.8-5. Applications for assistance shall be made within a reasonable time period, not to exceed forty-five (45) business days of a catastrophic event, catastrophic illness or injury, or emergency event. Applications made after forty-five (45) business days shall not be considered.

125.9. Decision and Appeal

125.9-1. *Initial Decision.* The Fund Operator shall include in the Fund rules a timeline for which an initial decision is required following the submission of a complete application. Such timeline shall include available extensions for circumstances wherein the applicant has a determination of award or coverage pending with another support or assistance resource.

125.9-2. *Appeal to the Director of the Fund Operator.* An appeal of the case manager's decision shall be requested in writing to the director of the Fund Operator within ten (10) business days after receipt of notice of the initial decision. The director of the Fund Operator shall provide the applicant with notice of his or her decision on the matter within ten (10) business days after receiving the appeal.

125.9-3. *Appeal to the Governmental Services Division Director.* An appeal of the decision of the director of the Fund Operator shall be requested in writing to the Governmental Services Division Director within ten (10) business days after receipt of notice of the director of the Fund Operator's decision. The Governmental Services Division Director shall provide the applicant with notice of his or her decision on the matter within ten (10) business days after receiving the appeal.

125.9-4. *Oneida Judiciary Appeal.* An applicant may appeal a decision of the Governmental Services Division Director by filing a complaint with the Trial Court.

End.

Adopted - BC-05-15-96-A

Amended - BC-01-08-97-G

Amended - BC-12-11-13-D

Amended - BC-01-11-17-B

Amended – BC-__-__-__-__



Legislative Operating Committee
December 16, 2020

Emergency Management and Homeland Security Law Amendments

| | |
|-------------------------------------|-----------------------------------|
| Submission Date: 3/17/20 | Public Meeting: N/A |
| LOC Sponsor: David P. Jordan | Emergency Enacted: 3/17/20 |

Summary: *This item was carried over from last term. The request for emergency amendments was added to the AFL in March 2020 in response to the COVID-19 pandemic. On March 12, 2020, Chairman Tehassi Hill signed a “Declaration of Public Health State of Emergency” in response to the COVID-19 pandemic, which has since been extended. The emergency amendments created and delegated authority to a COVID-19 Core Decision Making Team – which allowed the COVID-19 Team to make changes to internal operations and laws in a more efficient manner. The Oneida Business Committee adopted the emergency amendments through resolution BC-03-17-20-E. These emergency amendments were set to expire on September 17, 2020. The Oneida Business Committee extended the emergency amendments to the Emergency Management and Homeland Security law for an additional six (6) month period beginning on September 17, 2020, through the adoption of resolution BC-08-26-20-A. The emergency amendments will now expire on March 17, 2021.*

10/7/20 LOC: Motion by Jennifer Webster to add the Emergency Management and Homeland Security Law Amendments to the Active Files List with David Jordan as the sponsor; seconded by Marie Summers. Motion carried unanimously.

Motion by Jennifer Webster to Enter into the record the results of the August 24, 2020, e-poll titled, “Approval of Emergency Amendments to the Oneida Higher Education Pandemic Relief Fund Law;” seconded by Marie Summers. Motion carried unanimously.

11/4/20: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Cristina Danforth, Clorissa N. Santiago, Deborah Thundercloud, Debra Danforth, Michelle Myers, Kelly McAndrews, Mollie Passon, Kaylynn Gresham, Robert Keck, Melinda Danforth, Kristal Hill, Rhiannon Metoxen, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to have a general discussion on the COVID-19 Core Decision Making Team and if/how it should be permanently included in the law, and then read through the law line-by-line and discuss other potential permanent amendments that should be made. The attorney will update the draft based on this discussion and schedule another work meeting with the team to review the draft.

12/8/20: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Michelle Myers, Mollie Passon, Kaylynn Gresham, Richard Figueroa, Kristal Hill, Rhiannon Metoxen, James Petitjean. This was a

work meeting held through Microsoft Teams. The purpose of this work meeting was to review the updated draft of the proposed amendments to the law. Attorney will update the draft based on these discussions and prepare the legislative analysis and public meeting packet.

12/10/20: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Rhiannon Metoxen, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to finalize a decision as to whether the Community/Public Health Officer should have the authority to order individuals to take a vaccination during a public health emergency.

Next Steps:

- Approve the Emergency Management and Homeland Security law amendments draft, legislative analysis, and public comment period packet and forward the Emergency Management and Homeland Security law amendments to a public comment period to be held open until January 13, 2021.

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY January 13, 2021

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings)



Send Public Comments to
LOC@oneidanation.org
Ask Questions here
LOC@oneidanation.org

EMERGENCY MANAGEMENT AND HOMELAND SECURITY LAW AMENDMENTS

The purpose of this law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; and provide for the direction of emergency management, response, and recovery on the Reservation.

The Emergency Management and Homeland Security law amendments will:

1. Clarify that it is within the authority of the Community/Public Health Officer to issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation;
2. Extend the time period for a proclamation of an emergency from thirty (30) days to sixty (60) days;
3. Delegate authority to the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the declaration of an emergency and determine which positions of the Nation will compose the Emergency Core Decision Making Team; and
4. Provide that citations issued for violations of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.

For more proposed amendments to the Emergency Management and Homeland Security law please review the public comment packet at [Oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings)

PUBLIC COMMENT PERIOD CLOSES WEDNESDAY, JANUARY 13, 2021

The Nation's COVID-19 Team issued a declaration on March 27, 2020, titled "*Suspension of Public Meetings under the Legislative Procedures Act.*" This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Although there will be no public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



AMENDMENTS TO THE EMERGENCY MANAGEMENT AND HOMELAND SECURITY 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"> Amend title from Emergency Management and Homeland Security law to the Emergency Management law; Revise references to Oneida Community Health Services to Comprehensive Health Division; Include a definition for “emergency;” Revise the title of the Emergency Management and Homeland Security Agency to Emergency Management Department; Remove a provision regarding the Public Safety Officers’ Benefits Program from the law because it is provided for in federal law; Clarify that the Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer; Clarify that it is within the authority of the Community/Public Health Officer to issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation; Remove provision that required the Oneida Community Health Services to be responsible for certain expenses of an infected individual; Address the authority of the Community/Public Health Officer to organize the vaccinations of individuals during the Public Health Emergency; Clarify exemptions to the requirements for vaccines; Extend the time period for a proclamation of an emergency from thirty (30) days to sixty (60) days; Clarify that the Conservation Department may contract with an agency to cover their responsibility for the care, disposal, and sheltering of all abandoned domestic animals and livestock during a proclaimed emergency; Delegate authority to the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the declaration of an emergency and determine which positions of the Nation will compose the Emergency Core Decision Making Team; Delegate authority to the Emergency Core Decision Making Team to declare exceptions to any law, policy, procedure, regulation, or standard operating procedure of the Nation; Provide how the Emergency Core Decision Making Team will make declarations, and the duration of authority for those declarations; Require that notification of any declaration be provided to the Oneida Business Committee within twenty-four (24) hours of a declaration being made; Clarify the authority of the Oneida Business Committee to modify, extend, or repeal any declaration or emergency action taken by the Emergency Core Decision Making Team; |

| | |
|--------------------------|---|
| | <ul style="list-style-type: none"> Provide that citations issued for violations of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations; and Provide that the Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. |
| Purpose | To provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; establish the use of the National Incident Management System; and designate authority and responsibilities for public health preparedness. [3 O.C. 302.1-1]. |
| Affected Entities | Community/Public Health Officer, Emergency Management Department |
| Public Meeting | A public comment period will be held open until January 13, 2021. A public meeting will not be held in accordance with the Nation's COVID-19 Core Decision Making Team's declaration titled, " <i>Suspension of Public Meetings under the Legislative Procedures Act.</i> " |
| Fiscal Impact | A fiscal impact statement has not yet been requested. |

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** The Emergency Management and Homeland Security law ("the Law") was first adopted by the Oneida Business Committee on July 15, 1998. The Law provides for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; provides for the direction of emergency management, response, and recovery on the Reservation, as well as coordination with other agencies, victims, businesses, and organizations; establishes the use of the National Incident Management System; and designates authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].
- B. Emergency Amendments.** On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Law through the adoption of resolution BC-03-17-20-E. Emergency amendments to the Law were sought to create and delegate authority to a COVID-19 Core Decision Making Team to declare exceptions to any law, policy, procedure, regulation, or standard operating procedure of the Nation. The emergency amendments to this Law were necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments were needed to allow the COVID-19 Core Decision Making Team to act on behalf of the Nation on a daily, or even hourly basis, to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. The emergency amendments to the Law were set to expire on September 17, 2020. On August 26, 2020, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-08-26-20-A. The emergency amendments to the Law are set to expire on March 17, 2021.
- C.** The Legislative Operating Committee proposed permanent amendments be made to this Law to permanently adopt some of the emergency amendments that were recently made to the Law, as well as to address other revisions that may be necessary.

SECTION 3. CONSULTATION AND OUTREACH

- A.** Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
- Oneida Business Committee;

- Oneida Law Office;
- Emergency Management Department;
- Comprehensive Health Division;
- Risk Management Department;
- Intergovernmental Affairs;
- General Manager; and
- Strategic Planner.

B. The following laws were reviewed in the drafting of this analysis:

- Citations law;
- Oneida Personnel Policies and Procedures; and
- Legislative Procedures Act.

SECTION 4. PROCESS

A. The amendments to this Law have followed the process set forth in the Legislative Procedures Act.

- On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Law through the adoption of resolution BC-03-17-20-E for the purpose of creating and delegating authority to a COVID-19 Core Decision Making Team.
- On August 26, 2020, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-08-26-20-A.
- The LOC added amendments to the Law to its Active Files List on October 7, 2020.
- The emergency amendments to the Law are set to expire on March 17, 2021.

B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of these amendments:

- November 4, 2020: LOC work meeting with Comprehensive Health Division, Emergency Management Department, Oneida Law Office, Oneida Business Committee, Risk Management Department, General Manager, Intergovernmental Affairs, Strategic Planner.
- December 8, 2020: LOC work meeting with Comprehensive Health Division, Emergency Management Department, Strategic Planner.
- December 10, 2020: LOC work meeting.

C. *COVID-19 Pandemic's Effect on the Legislative Process.* 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. A public meeting for the proposed amendments to this Law will not be held due to the COVID-19 pandemic, but the submission of written comments will still be permitted.

- *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 the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows 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 January 12, 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, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, and BC-12-09-20-D.

■ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*

- On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
- 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.
- On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
- On June 10, 2020, the COVID-19 Core Decision Making 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. This declaration prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit.
- On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.

■ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*

- On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
- Although a public meeting will not be held on the proposed amendments to the Emergency Management and Homeland Security law, a public comment period will still be held open until January 13, 2021, in accordance with the Legislative Procedures Act and the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

SECTION 5. CONTENTS OF THE LEGISLATION

A. Public Safety Officers’ Benefit Program. The proposed amendments to the Law remove a provision regarding the Public Safety Officers’ Benefit Program. Previously, the Law provided that if a person is disabled or dies while serving as a public safety officer, as defined in the Public Safety Officers’ Benefits Program, then the spouse of that person and/or any children of that person may be eligible for benefits as determined by the Bureau of Justice Assistance under the Public Safety Officers’ Benefits Program, 42 U.S.C. ch. 46, subch. XII.

- *Effect.* The proposed amendments remove the provision regarding the Public Safety Officers' Benefits Program from the Law because this program and its application is already provided in federal law, so therefore the inclusion of this provision in the Law was duplicative.

B. *More Strict Policies and Regulations.* The proposed amendments to the Law include a new provision which provides that the Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer. [3 O.C. 302.6-2].

- *Effect.* The proposed amendment to the Law provides clarification that the Nation may implement more strict policies or requirements on its employees and elected or appointed officials than those issued by the Community/Public Health Officer.

C. *Authority of the Community/Public Health Officer.* The proposed amendments to the Law provide clarification that it is within the authority of the Community/Public Health Officer to issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation. [3 O.C. 302.7-4(c)]. The Law already provided that the Community/Public Health Officer could act as necessary to protect the public by taking action to limit the spread of any communicable disease through use of quarantine or isolation, requiring restrictions, or by taking other communicable disease control measures as necessary.

- *Effect.* During the most recent COVID-19 pandemic the Community/Public Health Officer had to take actions such as issuing a mandate requiring the use of face covering, or limiting the occupancy of businesses in order to protect the Nation from COVID-19. The proposed amendments clarify that these such actions are within the authority of the Nation's Community/Public Health Officer when acting as necessary to protect the public.

D. *Expenses of the Oneida Community Health Services.* The proposed amendments to the Law removed a provision which provided that the Oneida Community Health Services would be responsible for the following costs unless the costs are payable through third party liability or through any benefit system: the expense for law enforcement assistance under 302.7-4; the expense of maintaining quarantine and isolation of the quarantined area; the expense of conducting examinations and tests made under the direction of the Community/Public Health Officer; and the expense of care for dependent persons of the infected individual. Now, the Law simply provides that expenses for necessary medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's care and support. [3 O.C. 302.7-8].

- *Effect.* The proposed amendments to the Law remove the financial liability of the cost of care for an infected individual from the Oneida Community Health Services due to the fact that the Nation is not in a financial position to cover these expenses on such a widespread scale as the COVID-19 pandemic has presented. The Law provides that expenses for necessary medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's care and support. The Comprehensive Health Division will still provide care and have resources available for those who are eligible to receive care and assistance from the Comprehensive Health Division.

E. *Vaccinations During a Public Health Emergency.* The proposed amendments to the Law adjust the Community/Public Health Officer's authority in regard to vaccinations during a public health emergency. The Law provides that when a public health emergency is proclaimed, the Community/Public Health Officer may organize the vaccination of individuals. [3 O.C. 302.7-6(a)]. The Law then clarifies that the following types of individuals shall not be subject to a vaccination: an individual who the vaccination is reasonably likely to lead to serious harm to the individual; or an

individual, for reason of religion or conscience, refuses to obtain the vaccination. [3 O.C. 302.7-6(a)(1)(A)-(B)]. Previously, the Law provided that the Community/Public Health Officer had the authority to order the vaccination of an individual, unless the vaccination is reasonably likely to lead to serious harm to the individual or the individual, for reason of religion or conscience, refuses to obtain the vaccination.

- *Effect.* The proposed amendment to the Law provides that the Community/Public Health Officer can organize the vaccination of individuals but removes the authority of the Community/Public Health Officer to order the vaccination of an individual. The Legislative Operating Committee wants to ensure that each person has a choice as to whether to receive a vaccination.

F. *Extension of the Time Period for a Proclamation of an Emergency.* The proposed amendments to the Law extend how long a proclamation of an emergency may last. The Law now provides that no proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the Oneida Business Committee. [3 O.C. 302.8-2]. Previously, the Law provided that no proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than thirty (30) days, unless renewed by the Oneida Business Committee.

- *Effect.* The proposed amendment to the Law extends how long a proclamation of an emergency may last in recognition that the Nation may experience longer lasting emergencies, such as the COVID-19 pandemic. The Legislative Operating Committee determined that the extension of the proclamation period from thirty (30) to sixty (60) days would be less tedious when extending an emergency proclamation for longer periods of time, but still ensures responsible governance and that the Oneida Business Committee is reviewing the conditions of the Nation to ensure an emergency still exists.

G. *Responsibility of the Conservation Department.* The proposed amendments to the Law provide that during a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock, and that the Conservation Department may delegate this responsibility to a contracted agency. [3 O.C. 302.8-5]. Previously the Law provided that the provisions of Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance, shall not apply during a proclaimed emergency in addition to the statement that during a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock.

- *Effect.* The proposed amendment to the Law clarifies that the Domestic Animals law still remains in effect during a proclaimed emergency, but that it is simply the responsibility of the Conservation Department to maintain the care, disposal, and sheltering of all abandoned domestic animals and livestock. Additionally, the proposed amendment clarifies that the Conservation Department can delegate this responsibility to another agency, such as a Humane Society, through a contract.

G. *Emergency Core Decision Making Team.* The proposed amendments to the Law allow the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the proclamation of an emergency under this Law. [3 O.C. 302.9-1]. The Oneida Business Committee is responsible for establishing the Team through the adoption of a motion, and through that motion identifying the positions of the Nation which shall make up the members of the Emergency Core Decision Making Team based on the type and severity of emergency the Nation is experiencing. [3 O.C. 302.9-1]. Previously, the emergency amendments to the Law adopted in March 2020 provided that a COVID-19 Core Decision Making Team would be created by the declaration of a public health emergency under

this Law, and would consist of the following persons: Oneida Business Committee Officers which includes the Chairperson, Vice Chairperson, Treasurer, Secretary; Legislative Operating Committee Chairperson; General Manager; Gaming General Manager; Gaming Assistant Chief Financial Officer; Chief Financial Officer; Intergovernmental Affairs and Communications Director; and Public Relations Director.

- *Effect.* The proposed amendments to the Law adopt on a permanent basis the inclusion of an Emergency Core Decision Making Team, but make adjustments from the COVID-19 Core Decision Making Team that was adopted through the emergency amendments. Instead of the Emergency Core Decision Making Team being automatically established upon the declaration of an emergency, the Oneida Business Committee now has to take the additional step of adopting a motion to establish the Emergency Core Decision Making Team when an emergency is proclaimed. This change to how the Emergency Core Decision Making Team is established was made due to the recognition that not every proclaimed emergency may warrant the need for an Emergency Core Decision Making Team. Additionally, the Law provides that the Oneida Business Committee will identify the positions of the Nation which shall make up the members of the Emergency Core Decision Making Team when the Team is established instead of the Law identifying these positions so that the Emergency Core Decision Making Team can be scaled to the specific type and severity of emergency the Nation is experiencing.

B. *Delegation of Authority to the Emergency Core Decision Making Team.* The proposed amendments provide what authority the Emergency Core Decision Making Team is delegated. [3 O.C. 302.9-2]. The Emergency Core Decision Making Team shall have authority to declare exceptions to the Nation's laws during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the community, members of the Nation, and employees of the Nation. [3 O.C. 302.9-2(a)]. The Emergency Core Decision Making Team is also delegated the authority to make these exceptions to the Nation's laws notwithstanding the requirements of the Legislative Procedures Act. This means that the Emergency Core Decision Making team does not have to follow the requirements of the Legislative Procedures Act. The Emergency Core Decision Making Team is also delegated authority to declare an exception to any policy, procedure, regulation, or standard operating procedure of the Nation 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(b)]. The Emergency Core Decision Making Team is delegated the authority to make these exceptions to the Nation's policies, procedures, regulations, or standard operating procedures notwithstanding any requirements of the policies, procedures, regulations, or standard operating procedures. The authority delegated to the Emergency Core Decision Making Team through the proposed amendments is the same authority which was delegated to the COVID-19 Core Decision Making Team through the emergency amendments.

- *Effect.* The proposed amendments outline the specific authority granted to the Emergency Core Decision Making Team. The Emergency Core Decision Making Team is granted the authority to declare exceptions to a law, policy, procedure, regulation, or standard operating procedure of the Nation, notwithstanding the requirements of the Legislative Procedures Act or any other policy, procedure, regulation, or standard operating procedure, in an effort to provide the Emergency Core Decision Making Team the greatest flexibility in taking action to protect the health, safety, and general welfare of the Nation's community, members, and employees from an emergency.

- 247 **C. *Declaration of an Exception.*** The proposed amendments outline the requirements for making a
248 declaration and the duration of authority for declarations. [3 O.C. 302.9-3, 302.9-4]. Any declaration
249 made by the Emergency Core Decision Making Team must be written on the Nation's letterhead,
250 provide the date the declaration was issued, contain a clear statement of the directives, provide the date
251 the directive shall go into effect, be signed by the Oneida Business Committee Chairperson or Vice
252 Chairperson in the Chairperson's absence, and be posted on the Nation's website. [3 O.C. 302.9-3(a)-
253 (f)]. Declarations and actions taken by the Emergency Core Decision Making Team shall be effective
254 upon the date declared by the Emergency Core Decision Making Team, and shall remain in effect for
255 the duration of any declared emergency, or for a shorter time period if identified. [3 O.C. 302.9-4]. The
256 requirements of a declaration and duration of a declaration provided through the proposed amendments
257 is the same as the requirements of a declaration and duration of a declaration provided by the COVID-
258 19 Core Decision Making Team through the emergency amendments.
- 259 ■ *Effect.* The proposed amendments provide more information on how the Emergency Core Decision
260 Making Team will make declarations of an exception to a law, policy, procedure, regulation, or
261 standard operating procedure of the Nation, and for how long that declaration will remain in effect.
- 262 **D. *Notification to and Review by the Oneida Business Committee.*** The proposed amendments to the
263 Law provide that within twenty-four (24) hours of a declaration being made, the Emergency Core
264 Decision Making Team shall provide notification of the declaration to the Oneida Business Committee.
265 [3 O.C. 302.9-5]. The Law also provides that the Oneida Business Committee may modify, extend, or
266 repeal any declaration or emergency action taken by the Emergency Core Decision Making Team. [3
267 O.C. 302.9-6].
- 268 ■ *Effect.* The proposed amendments to the Law ensure that the Oneida Business Committee is always
269 informed of any declarations that are made by the Emergency Core Decision Making Team, and
270 clarify that the Oneida Business Committee ultimately has the final authority to modify, extend, or
271 repeal any declaration made by the Emergency Core Decision Making Team.
- 272 **E. *Citations.*** The proposed amendments to the Law reorganize the enforcement and penalties provisions
273 to clarify that an Oneida Police Department Officer may issue a citation to any person who violates a
274 provision of this Law. [3 O.C. 302.10-2]. The citation for a violation of this law shall be processed in
275 accordance with the procedure contained in the Nation's Citations law. [3 O.C. 302.10-2(a)]. The
276 Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific
277 fine amounts for violations of this Law. [3 O.C. 302.10-2(b)]. Previously, the Law stated that violators
278 of this Law may be subject to a fine of not more than two hundred dollars (\$200) per violation to be
279 issued by the Oneida Police Department and paid to the Nation, and that all fines assessed under this
280 section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal
281 with the Judiciary before the fine is to be paid.
- 282 ■ *Effect.* The proposed amendment to the Law updates the language and process regarding citations
283 for violations of this Law in order to conform with the Nation's Citations law.
- 284 **F. *Minor Drafting Changes.*** Minor drafting and formatting changes have been made throughout the
285 Law for clarity including the following:
- 286 ■ The title of the Law was changed from "Emergency Management and Homeland Security" to
287 "Emergency Management;"
 - 288 ■ References to the "Emergency Management and Homeland Security Agency" were changed to
289 the Emergency Management Department;" and

- References to the “Oneida Community Health Services” was changed to the “Comprehensive Health Division.”

SECTION 6. EXISTING LEGISLATION

A. *References to other Laws of the Nation.* The following laws of the Nation are referenced in this Law:

- *Citations law.* The Citations law provides a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started – such as who has the authority to issue a citation, the requirements of the form of the citation, and how a citation is served and filed; stipulations for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
 - This Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation’s laws and policies governing citations. [3 O.C. 302.10-2]. The Citations law is the Nation’s law governing citations.
 - Any citations issued by the Oneida Police Department for a violation of this Law must comply with the requirements and procedures of the Citations law.
- *Oneida Personnel Policies and Procedures.* The Oneida Personnel Policies and Procedures is the Nation’s law which governs employment. The Oneida Personnel Policies and Procedures provides the process for handling complaints, disciplinary actions, and grievances. [Section V.D.].
 - This Law provides that an employee of the Nation who violates this Law during their work hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action in accordance with the Nation’s laws and policies governing employment. [3 O.C. 302.10-3].
 - This Law also provides that an employee of the Nation who is disciplined under this Law may appeal the disciplinary action in accordance with the Nation’s laws and policies governing employment. [3 O.C. 302.10-3(a)].
 - A supervisor would have to follow the disciplinary action procedure contained in the Oneida Personnel Policies and Procedures to hold an employee accountable for a violation of this Law.

B. The proposed amendments to the Law have the follow impact on existing legislation of the Nation.

- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
 - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].

- The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
- Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
- Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
- Section 302.9-2(a) of the proposed emergency amendments to this Law conflict with section 109.9-5 of the Legislative Procedures Act. The Legislative Procedures Act provides a clear process for how the Nation is expected to handle emergency legislation. The proposed amendments allow the Emergency Core Decision Making Team the authority to declare exceptions to laws of the Nation notwithstanding any requirements of the Legislative Procedures Act.
- Although the proposed amendments conflict with the Legislative Procedures Act, the Oneida Business Committee is being asked to consider the adoption of this amendment due to the fact that the Nation needs to be able to address its internal governmental operations and laws as they relate to an emergency on a daily, or even hourly basis in order to provide the best effort of protection the health, safety, and general welfare of the Reservation population.
- The proposed amendments allocation of authority to the Emergency Core Decision Making Team to declare exceptions to the Nation's laws 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 will supersede the requirements of the Legislative Procedures Act when the Nation has proclaimed an emergency.

SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

A. Enforcement. The Oneida Police Department is delegated enforcement authority under this Law.

- The Oneida Police Department shall take enforcement action when necessary and work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine, isolation, or other restrictions on communicable disease are

violated or intent to violate becomes apparent. [3 O.C. 302.7-7].

- An officer of the Oneida Police Department may issue a citation to any person who violates a provision of this Law. [3 O.C. 302.10-2].

B. Citation Schedule Resolution. The Oneida Business Committee is delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 302.10-2(b)].

SECTION 8. OTHER CONSIDERATIONS

A. Deadline for Permanent Adoption of Amendments. The emergency amendments to the Law, as adopted by the Oneida Business Committee through BC-03-17-20-E, and extended through BC-08-26-20-A, will expire on March 17, 2021.

- *Conclusion:* The Legislative Operating Committee will need to complete the development and adoption of permanent amendments to this Law prior to March 17, 2021.

B. Citation Schedule. This Law provides that the Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 302.10-2(b)]. A citation schedule will need to be developed and adopted. On March 19, 2020, the Nation's COVID-19 Core Decision Making Team issued a declaration titled, "Emergency Management and Homeland Security Law Fine and Penalty Schedule" which set forth a fine schedule for violations of the Law. This declaration can be used in the development of a citations schedule.

- *Conclusion.* The Legislative Operating Committee should plan to develop and bring a proposed citation schedule resolution to the Oneida Business Committee for consideration at the time these amendments are up for adoption.

C. Fiscal Impact. A fiscal impact statement of the proposed amendments to the Law will have to be requested. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, "Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures Act," provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- *Conclusion.* The Legislative Operating Committee will have to determine which entity is best suited to complete a fiscal impact statement, and direct that a fiscal impact statement be completed.

Title 3. Health and Public Safety – Chapter 302
Yotlihokté Olihwa'ke
Matters that are concerning immediate attention
EMERGENCY MANAGEMENT ~~AND HOMELAND SECURITY~~

| | |
|--|--|
| 302.1. Purpose and Policy | 302.7. Public Health Emergencies and Communicable Disease |
| 302.2. Adoption, Amendment, Conflicts | 302.8. When Proclamation of an Emergency is Proclaimed |
| 302.3. Definitions | 302.9. Emergency Enforcement and Penalties |
| 302.4. Emergency Management Homeland Security Department | 302.10. COVID-19 Core Decision Making Team |
| 302.5. Oneida Nation Emergency Planning Committee (ONEPC) | 302.10. Enforcement and Penalties- |
| 302.6. Tribal Entity Cooperation | |

302.1. Purpose and Policy

302.1-1. ~~—Purpose.~~ The ~~purposes~~ purpose of this law ~~are~~ is to:

- (a) provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; ~~and~~
- (b) provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; ~~and~~
- (c) establish the use of the National Incident Management System (NIMS); and
- (d) designate authority and responsibilities for public health preparedness.

302.1-2. ~~—Policy.~~ It is the policy of ~~this law~~ the Nation to provide:

- (a) a description of the emergency management network of the Nation; ~~and~~
- (b) authorization for specialized activities to mitigate hazardous conditions and for the preparation of ~~Tribal~~ the Nation's emergency response ~~management~~ plans, as well as to address concerns related to isolation and/or quarantine orders, emergency care, and mutual aid; and
- (c) for all expenditures made in connection with such emergency management activities to be deemed specifically for the protection and benefit of the inhabitants, property, and environment of the Reservation.

302.2. Adoption, Amendment, ~~Conflicts~~ Repeal

302.2-1. ~~—~~This law was adopted by the Oneida Business Committee by resolution BC-07-15-98-A and amended by resolution BC-12-20-06-G, BC-05-13-09-F, and ~~emergency amended by BC-03-17-20-E~~ BC- - - -.

302.2-2. ~~—~~This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

302.2-3. ~~—~~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.

302.2-4. ~~—~~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.

302.2-5. ~~—~~This law is adopted under authority of the Constitution of the Oneida Nation.

302.3. Definitions

302.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Biological ~~Agent~~agent” means an infectious disease or toxin that has the ability to adversely affect human health in a variety of ways, from mild allergic reactions to serious medical conditions, and including death.

(b) “Communicable ~~Disease~~disease” means any disease transmitted from one person or animal to another directly by contact with excreta or other discharges from the body, or indirectly via substances or inanimate objects that may cause a public health emergency.

(c) “Community/Public Health Officer” means an agent of the ~~OCHS~~Comprehensive Health Division, or his or her designee(s), who is responsible for taking the appropriate actions in order to prevent a public health emergency from occurring on the Reservation.

~~(d) “COVID-19” means a mild to severe respiratory illness that is caused by a coronavirus, is transmitted chiefly by contact with infectious material, and is characterized especially by fever, cough and shortness of breath and may progress to pneumonia and respiratory failure.~~

(d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division, which is authorized to issue compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.

(e) “Director” means the Director of the Nation’s Emergency Management/ and Homeland Security Agency.

~~(f)~~ (f) “Emergency” means a situation that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

(g) “Emergency Management Network” means the entities, volunteers, consultants, contractors, outside agencies, and any other resources the Nation may use to facilitate inter-agency collaboration, identify and share resources, and better prepare for local incidents and large-scale disasters.

~~(g)~~ (h) “Emergency ~~Operations~~Response Plan” means the plan established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the Reservation.

~~(h)~~ (i) “Entity” means any ~~Tribal~~ agency, board, committee, commission, or department of the Nation.

~~(i)~~ (j) “Fair Market Value” means the everyday cost of a product in an ordinary market, absent of a disaster.

~~(j)~~ (k) “Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others.

~~(k)~~ (l) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

~~(l)~~ (m) “Nation” means the Oneida Nation.

~~(m)~~ (n) “National Incident Management System” or “NIMS” means the system mandated by Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that provides a consistent nationwide approach for federal, state, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

~~(n) “OCHS” means the Oneida Community Health Services, which is authorized to issue~~

~~compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.~~

(o) ~~“Oneida Nation Emergency Planning Committee” or “ONEPC”~~ means the committee that assists the Director in the implementation of this law.

(p) ~~“Proclaim”~~ means to announce officially and publicly.

(q) ~~“Public Health Emergency”~~ means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

(r) ~~“Quarantine”~~ means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease or chemical, biological, or radiological agent, for a period of time equal to the longest usual incubation period of the disease or until there is no risk of spreading the chemical, biological, or radiological agent. The limitation of movement shall be in such manner as to prevent the spread of a communicable disease or chemical, biological, or radiological agent.

(s) ~~“Reservation”~~ means all land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(t) ~~“Vital Resources”~~ means food, water, equipment, sand, wood, or other materials obtained for the protection of life, property, and/or the environment during a proclaimed emergency.

302.4. Emergency Management/~~Homeland Security~~ Department

302.4-1. ~~There is hereby created an~~**The** Emergency Management/~~Homeland Security Agency~~**which is** ~~Department shall be~~ responsible for planning and coordinating the response to a disaster or emergency that occurs within the boundaries of the Reservation.

302.4-2. ~~— Authority of the Director.~~ **The Director shall be responsible for coordinating and planning the operational response to an emergency and is hereby empowered to:**

(a) ~~organize and coordinate efforts of the emergency management network of the Nation;~~

(b) ~~implement the Emergency~~ **OperationsResponse** Plan as adopted by the Oneida Business Committee;

(c) ~~facilitate coordination and cooperation between entities and resolve questions that may arise among them;~~

(d) ~~incorporate the HSPD 5, issued on February 28, 2003 which requires all~~ **Federal** ~~federal~~, state, local, and tribal governments to administer the best practices contained in the NIMS;

(e) ~~coordinate the development and implementation of the NIMS within the Nation;~~

(f) ~~ensure that the following occurs:~~

(1) ~~an Emergency~~ **OperationsResponse** Plan is developed and maintained, and includes training provisions for applicable personnel;

- (2) emergency resources, equipment, and communications systems are developed, procured, supplied, inventoried, and accounted for;
- (g) establish the line of authority as recorded in the Emergency ~~Operations~~ Response Plan as adopted by the Oneida Business Committee; and
- (h) enter into mutual aid and service agreements with tribal, local, state, and federal governments, subject to Oneida Business Committee approval.
- 302.4-3. ~~In~~ Action when an Emergency is Proclaimed. In addition, in the event of a proclamation of an emergency on the Reservation, the Director is hereby empowered:
- (a) to obtain vital resources and to bind the Nation for the fair market value thereof, upon approval of the Emergency Management/~~Homeland Security~~ purchasing agent, who is identified in the Emergency ~~Operations~~ Response Plan. If a person or business refuses to provide the resource(s) required, the Director may commandeer resources for public use and bind the Nation for the fair market value thereof. In the event the purchasing agent is unavailable, the chain of command, as approved by the Oneida Business Committee, shall be followed.
- (b) to require emergency activities of as many ~~Tribal~~ members of the Nation and/or employees as deemed necessary.
- (c) to execute all of the ordinary powers of the Director, all of the special powers conferred by this law or by resolution adopted pursuant thereto, all powers conferred on the Director by any agreement approved by the Oneida Business Committee, and to exercise complete emergency authority over the Reservation.
- (d) to coordinate with tribal, federal, state, and local authorities.

302.5. Oneida Nation Emergency Planning Committee (~~ONEPC~~)

302.5-1.—The ~~ONEPC~~ Oneida Nation Emergency Planning Committee shall consist of representatives from entities and a community representative as identified in the ~~ONEPC~~ Oneida Nation Emergency Planning Committee bylaws as approved by the Oneida Business Committee.

302.5-2.—The ~~ONEPC~~ Oneida Nation Emergency Planning Committee shall meet as necessary to assist the Director in drafting and maintaining the Emergency ~~Operations~~ Response Plan.

302.5-3.—At the request of the Director, the ~~ONEPC~~ Oneida Nation Emergency Planning Committee shall provide assistance to the Director in the implementation of the provisions of this law or any plan issued thereunder.

302.6. ~~Tribal~~ Entity Cooperation

302.6-1.—All entities shall comply with reasonable requests from the Director relating to emergency planning, emergency operations, and federal mandate compliance.

~~302.6-2.—A person who is disabled or dies while serving as a public safety officer, as defined in the Public Safety Officers' Benefits Program, the spouse of that person and/or any children of that person may be eligible for benefits as determined by the Bureau of Justice Assistance under the Public Safety Officers' Benefits Program, 42 U.S.C. ch. 46, subch. XII.~~

302.6-2. The Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer.

302.7. Public Health Emergencies ~~and Communicable Disease~~

302.7-1.—In order to prevent a public health emergency, the Director and the Community/Public Health Officer shall take action to limit the spread of any communicable disease, in accordance with this law.

302.7-2. —Investigation of Communicable Disease. If the Community/Public Health Officer suspects or is informed of the existence of any communicable disease, the Community/Public Health Officer shall investigate and make or cause examinations to be made, as are deemed necessary.

302.7-3. ~~The Community/Public Health Officer may quarantine, isolate, require restrictions, or take other communicable disease control measures as necessary. Any individual, including an authorized individual, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this law.~~Quarantinable Diseases. The Community/Public Health Officer shall provide a list of quarantinable diseases specified in a resolution to be adopted by the Oneida Business Committee.

302.7-4.(a) ~~The list~~ Authority of quarantinable diseases shall be specified in a resolution adopted by the Oneida Business Committee as recommended by the ~~the~~ Community/Public Health Officer. The Community/Public Health Officer shall act as necessary to protect the public including, but not limited to, the following actions:

~~(b)~~(a) Request the Director to take the necessary steps to have a public health emergency proclaimed;

(b) Quarantine, isolate, or take other communicable disease control measures upon an individual(s); and

(c) Issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation.

302.7-5. Quarantine and Isolation. The Community/Public Health Officer shall immediately quarantine, isolate, and/or take other communicable disease control measures upon an individual if the Community/Public Health Officer receives a diagnostic report from a physician or a written or verbal notification from an individual or his or her parent or caretaker that gives the Community/Public Health Officer a reasonable belief that the individual has a communicable disease that is likely to cause a public health emergency.

~~(c) When the Community/Public Health Officer deems it necessary that an individual be quarantined or otherwise restricted in a separate place, the Community/Public Health Officer shall have that individual removed to such a designated place, if it can be done without danger to the individual's health.~~

~~Cross reference: See also Resolution Identifying Quarantinable Diseases BC-05-13-09-G.~~

~~(a) 302.7-4. The Community/Public Health Officer shall act as necessary to protect the public, including requesting the Director to take steps to have a public health emergency proclaimed, as identified in 302.8.~~

302.7-5. — If an individual is infected with a communicable disease and the Community/Public Health Officer determines it is necessary to limit contact with the individual, all persons may be forbidden from being in direct contact with the infected individual, except for those persons having a special written permit from the Community/Public Health Officer.

(b) Any individual, including an authorized individual, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this 302.7-6. ~~The Nation's law enforcement agency shall work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine or other restrictions on communicable disease are violated or intent to violate is manifested.~~

302.7-7. Expenses for law.

(c) When the Community/Public Health Officer deems it necessary ~~medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's support. The OCHS is responsible for the following costs accruing under this section unless the costs are payable through third party liability or through any benefit system:~~

(a) ~~the expense for law enforcement assistance under 302.7-4.~~

(b) ~~the expense of maintaining quarantine and isolation of the~~ that an individual be quarantined area.

(c) ~~the expense of conducting examinations and tests made under the direction of, isolated, or otherwise restricted in a separate place,~~ the Community/Public Health Officer shall have that individual removed to such a designated place, if it can be done without danger to the individual's health.

(d) ~~the expense of care for dependent persons of the infected individual.~~

~~302.7-8. When~~ 302.7-6. Action when a Public Health Emergency is Proclaimed. In addition, ~~when~~ a public health emergency is proclaimed, the Community/Public Health Officer may do all of the following, as necessary:

(a) ~~order~~ organize the vaccination of individuals;

(1) The following types of individuals shall not be subject to a vaccination:

(A) an individual to receive a vaccination, unless who the vaccination is reasonably likely to lead to serious harm to the individual ~~or the;~~ and

(B) an individual, for reason of religion or conscience, refuses to obtain the vaccination.

(b) ~~isolate or quarantine individuals, including those who are unable or unwilling to receive the~~ a vaccination under (a); and

(c) ~~prevent any individual, except for those individuals authorized by the Community/Public Health Officer, from entering an isolation or quarantine premises.~~

302.8. When an Emergency is Proclaimed

302.7-7. The Oneida Police Department shall take enforcement action when necessary and work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine, isolation, or other restrictions on communicable disease are violated or intent to violate becomes apparent.

302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's care and support.

302.8. Proclamation of an Emergency

302.8-1. — Proclamation of an Emergency. The Oneida Business Committee shall be responsible for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or presidential declaration.

(a) ~~302.8-2.~~ The Director may request that the Oneida Business Committee proclaim the existence of an emergency. The Oneida Business Committee may proclaim the existence of an emergency without a request from the Director, if warranted.

(b) In the event the Oneida Business Committee is unable to proclaim or ratify the existence of an emergency, the Director may proclaim an emergency which shall be in effect until such time the Oneida Business Committee can officially ratify this declaration. The Oneida Business Committee may proclaim the existence of an emergency without a request from the Director, if warranted.

~~302.8-2. 302.8-3. The emergency management network of the Reservation shall be as specified in the Emergency Operations Plan, as adopted by the Oneida Business Committee.~~

~~302.8-4. The provisions of Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance, shall not apply during a proclaimed emergency. During a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock.~~

~~302.8-5. No proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than thirty (30) days, unless renewed the proclamation of emergency is extended by the Oneida Business Committee.~~

302.8-3. Management Network. The emergency management network of the Reservation shall be as specified in the Emergency Response Plan, as adopted by the Oneida Business Committee.

302.8-4. After-Action Report. After an emergency has subsided, the Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee, any interested entity, and the public. -This report shall be presented to the required parties no longer^{later} than sixty (60) days after the emergency has subsided, unless an extension is granted by the Oneida Business Committee.

302.8-5. During

~~302.9. Enforcement and Penalties~~

~~302.9-1. It shall be a violation of this law for any person to willfully obstruct, hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued thereunder, whether or not an emergency has been proclaimed.~~

~~(a) Violators of this law may be subject to a fine of not more than \$200 per violation to be issued by the Oneida Police Department and paid to the Nation. Employees of the Nation who violate this law during their work hours or who refuse to follow the~~ a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock. The Conservation Department may delegate this responsibility to a contracted agency.

~~302.9. Emergency Operations Plan may be subject to disciplinary action instead of a fine~~ Emergency Core Decision Making Team

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~~302.9-2. All fines assessed under this section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal with the Judiciary before the fine is to be paid.~~

~~302.9-3. Employees of the Nation who are disciplined under this law may appeal the disciplinary action in accordance with the personnel policies and procedures of the Nation.~~

~~302.10. COVID-19 Core Decision Making Team~~

~~302.10-1. Creation of~~ 302.9-1. Emergency Core Decision Making Team. Upon the proclamation of an emergency under this law, the Oneida Business Committee may establish an Emergency Core Decision Making Team through the adoption of a motion. The motion shall identify the positions of the Nation which shall make up the members of the Emergency Core Decision Making Team based on the type and severity of emergency the Nation is experiencing.

~~302.9-2. Core Decision Making Team. There is hereby created a COVID-19 Core Decision Making Team (COVID-19 Team) which shall exist by declaration of a public health emergency under this law. The COVID-19 Team shall be made up of the following persons:~~

~~(a) Oneida Business Committee Officers which includes the Chairperson, Vice Chairperson, Treasurer, Secretary;~~

- ~~(b) Legislative Operating Committee Chairperson;~~
- ~~(c) General Manager;~~
- ~~(d) Gaming General Manager;~~
- ~~(e) Gaming Assistant Chief Financial Officer;~~
- ~~(f) Chief Financial Officer;~~
- ~~(g) Intergovernmental Affairs and Communications Director; and~~
- ~~(h) Public Relations Director.~~

~~302.10-2. Delegation of Authority. The COVID-19~~The Emergency Core Decision Making Team shall have emergency authority to take the following actions:

- (a) Notwithstanding any requirements of the Legislative Procedures Act, declare exceptions to the Nation's laws 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; ~~and~~
- (b) Notwithstanding any requirements in any policy, procedure, regulation, or standard operating procedures, declare exceptions to any policy, procedure, regulation, or standard operating procedure during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the ~~the~~ Nation's community, members, and employees.

~~302.10-3. Duration of Authority for Exceptions Declared by the COVID-19 Team. Any actions taken under authority granted in this section shall be effective upon the date declared by the COVID-19 Team and shall be effective for the duration of any declared emergency, or for a shorter time period if identified.~~

- ~~(a) The Oneida Business Committee may change or extend any emergency actions taken by the COVID-19 Team.~~

~~302.10-4. Declarations.~~ All declarations made by the ~~COVID-19~~Emergency Core Decision Making Team shall:

- (a) be written on the Nation's letterhead;
- (b) provide the date the declaration was issued;
- (c) contain a clear statement of the directives;
- (d) provide the date the directive shall go into effect;
- (e) be signed by the Oneida Business Committee Chairperson, or Vice Chairperson in the Chairperson's absence; and
- (f) be posted on the Nation's ~~COVID-19 web site~~website.

~~302.9-4. Duration of Authority for Exceptions Declared by the Emergency Core Decision Making Team. Any declaration made under the authority granted in this section shall be effective upon the date declared by the Emergency Core Decision Making Team and shall be effective for the duration of any proclaimed emergency, or for a shorter time period if identified.~~

~~302.9-5. Notification to the Oneida Business Committee. Within twenty-four (24) hours of a declaration being made, the Emergency Core Decision Making Team shall provide notification of the declaration to the Oneida Business Committee.~~

~~302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or emergency action taken by the Emergency Core Decision Making Team.~~

302.10. Enforcement and Penalties

~~302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct, hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued thereunder, whether or not an emergency has been proclaimed.~~

302.10-2. Citations. An Oneida Police Department officer may issue a citation to any person who violates a provision of this law.

(a) A citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.

(b) The Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this law.

302.10-3. Disciplinary Action. An employee of the Nation who violates this law during their work hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action in accordance with the Nation's laws and policies governing employment.

(a) An employee of the Nation who is disciplined under this law may appeal the disciplinary action in accordance with the Nation's laws and policies governing employment.

End.

Adopted - BC-07-15-98-A

Amended - BC-12-20-06-G

Emergency Amended – BC-04-30-09-A (Influenza A (H1N1))

Amended- BC-05-13-09-F

Emergency Amended – BC-03-17-20-E (COVID-19)

Extension of Emergency – BC-08-26-20-A

Amended – BC- - - -

Title 3. Health and Public Safety – Chapter 302
Yotlihokté Olihwa'ke
Matters that are concerning immediate attention
EMERGENCY MANAGEMENT

302.1. Purpose and Policy
302.2. Adoption, Amendment, Conflicts
302.3. Definitions
302.4. Emergency Management Department
302.5. Oneida Nation Emergency Planning Committee

302.6. Entity Cooperation
302.7. Public Health Emergencies
302.8. Proclamation of an Emergency
302.9. Emergency Core Decision Making Team
302.10. Enforcement and Penalties

302.1. Purpose and Policy

302.1-1. *Purpose.* The purpose of this law is to:

- (a) provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster;
- (b) provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;
- (c) establish the use of the National Incident Management System (NIMS); and
- (d) designate authority and responsibilities for public health preparedness.

302.1-2. *Policy.* It is the policy of the Nation to provide:

- (a) a description of the emergency management network of the Nation;
- (b) authorization for specialized activities to mitigate hazardous conditions and for the preparation of the Nation's emergency response plans, as well as to address concerns related to isolation and/or quarantine orders, emergency care, and mutual aid; and
- (c) for all expenditures made in connection with such emergency management activities to be deemed specifically for the protection and benefit of the inhabitants, property, and environment of the Reservation.

302.2. Adoption, Amendment, Repeal

302.2-1. This law was adopted by the Oneida Business Committee by resolution BC-07-15-98-A and amended by resolution BC-12-20-06-G, BC-05-13-09-F, and BC-__-__-__-__.

302.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

302.2-3. 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.

302.2-4. 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.

302.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

302.3. Definitions

302.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Biological agent" means an infectious disease or toxin that has the ability to adversely affect human health in a variety of ways, from mild allergic reactions to serious medical conditions, and including death.

- (b) “Communicable disease” means any disease transmitted from one person or animal to another directly by contact with excreta or other discharges from the body, or indirectly via substances or inanimate objects that may cause a public health emergency.
- (c) “Community/Public Health Officer” means an agent of the Comprehensive Health Division, or his or her designee(s), who is responsible for taking the appropriate actions in order to prevent a public health emergency from occurring on the Reservation.
- (d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division, which is authorized to issue compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.
- (e) “Director” means the Director of the Nation’s Emergency Management and Homeland Security Agency.
- (f) “Emergency” means a situation that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or other worsening of the situation.
- (g) “Emergency Management Network” means the entities, volunteers, consultants, contractors, outside agencies, and any other resources the Nation may use to facilitate inter-agency collaboration, identify and share resources, and better prepare for local incidents and large-scale disasters.
- (h) “Emergency Response Plan” means the plan established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the Reservation.
- (i) “Entity” means any agency, board, committee, commission, or department of the Nation.
- (j) “Fair Market Value” means the everyday cost of a product in an ordinary market, absent of a disaster.
- (k) “Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others.
- (l) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (m) “Nation” means the Oneida Nation.
- (n) “National Incident Management System” or “NIMS” means the system mandated by Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that provides a consistent nationwide approach for federal, state, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.
- (o) “Oneida Nation Emergency Planning Committee” means the committee that assists the Director in the implementation of this law.
- (p) “Proclaim” means to announce officially and publicly.
- (q) “Public Health Emergency” means the occurrence or imminent threat of an illness or health condition which:
- (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

(r) “Quarantine” means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease or chemical, biological, or radiological agent, for a period of time equal to the longest usual incubation period of the disease or until there is no risk of spreading the chemical, biological, or radiological agent. The limitation of movement shall be in such manner as to prevent the spread of a communicable disease or chemical, biological, or radiological agent.

(s) “Reservation” means all land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(t) “Vital resources” means food, water, equipment, sand, wood, or other materials obtained for the protection of life, property, and/or the environment during a proclaimed emergency.

302.4. Emergency Management Department

302.4-1. The Emergency Management Department shall be responsible for planning and coordinating the response to a disaster or emergency that occurs within the boundaries of the Reservation.

302.4-2. *Authority of the Director.* The Director shall be responsible for coordinating and planning the operational response to an emergency and is hereby empowered to:

(a) organize and coordinate efforts of the emergency management network of the Nation;

(b) implement the Emergency Response Plan as adopted by the Oneida Business Committee;

(c) facilitate coordination and cooperation between entities and resolve questions that may arise among them;

(d) incorporate the HSPD 5 which requires all federal, state, local, and tribal governments to administer the best practices contained in the NIMS;

(e) coordinate the development and implementation of the NIMS within the Nation;

(f) ensure that the following occurs:

(1) an Emergency Response Plan is developed and maintained, and includes training provisions for applicable personnel;

(2) emergency resources, equipment, and communications systems are developed, procured, supplied, inventoried, and accounted for;

(g) establish the line of authority as recorded in the Emergency Response Plan as adopted by the Oneida Business Committee; and

(h) enter into mutual aid and service agreements with tribal, local, state, and federal governments, subject to Oneida Business Committee approval.

302.4-3. *Action when an Emergency is Proclaimed.* In addition, in the event of a proclamation of an emergency on the Reservation, the Director is hereby empowered:

(a) to obtain vital resources and to bind the Nation for the fair market value thereof, upon approval of the Emergency Management purchasing agent, who is identified in the Emergency Response Plan. If a person or business refuses to provide the resource(s)

required, the Director may commandeer resources for public use and bind the Nation for the fair market value thereof. In the event the purchasing agent is unavailable, the chain of command, as approved by the Oneida Business Committee, shall be followed.

(b) to require emergency activities of as many members of the Nation and/or employees as deemed necessary.

(c) to execute all of the ordinary powers of the Director, all of the special powers conferred by this law or by resolution adopted pursuant thereto, all powers conferred on the Director by any agreement approved by the Oneida Business Committee, and to exercise complete emergency authority over the Reservation.

(d) to coordinate with tribal, federal, state, and local authorities.

302.5. Oneida Nation Emergency Planning Committee

302.5-1. The Oneida Nation Emergency Planning Committee shall consist of representatives from entities and a community representative as identified in the Oneida Nation Emergency Planning Committee bylaws as approved by the Oneida Business Committee.

302.5-2. The Oneida Nation Emergency Planning Committee shall meet as necessary to assist the Director in drafting and maintaining the Emergency Response Plan.

302.5-3. At the request of the Director, the Oneida Nation Emergency Planning Committee shall provide assistance to the Director in the implementation of the provisions of this law or any plan issued thereunder.

302.6. Entity Cooperation

302.6-1. All entities shall comply with reasonable requests from the Director relating to emergency planning, emergency operations, and federal mandate compliance.

302.6-2. The Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer.

302.7. Public Health Emergencies

302.7-1. In order to prevent a public health emergency, the Director and the Community/Public Health Officer shall take action to limit the spread of any communicable disease, in accordance with this law.

302.7-2. *Investigation of Communicable Disease.* If the Community/Public Health Officer suspects or is informed of the existence of any communicable disease, the Community/Public Health Officer shall investigate and make or cause examinations to be made, as are deemed necessary.

302.7-3. *Quarantinable Diseases.* The Community/Public Health Officer shall provide a list of quarantinable diseases specified in a resolution to be adopted by the Oneida Business Committee.

302.7-4. *Authority of the Community/Public Health Officer.* The Community/Public Health Officer shall act as necessary to protect the public including, but not limited to, the following actions:

(a) Request the Director to take the necessary steps to have a public health emergency proclaimed;

(b) Quarantine, isolate, or take other communicable disease control measures upon an individual(s); and

(c) Issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation.

302.7-5. *Quarantine and Isolation.* The Community/Public Health Officer shall immediately quarantine, isolate, and/or take other communicable disease control measures upon an individual if the Community/Public Health Officer receives a diagnostic report from a physician or a written or verbal notification from an individual or his or her parent or caretaker that gives the Community/Public Health Officer a reasonable belief that the individual has a communicable disease that is likely to cause a public health emergency.

(a) If an individual is infected with a communicable disease and the Community/Public Health Officer determines it is necessary to limit contact with the individual, all persons may be forbidden from being in direct contact with the infected individual, except for those persons having a special written permit from the Community/Public Health Officer.

(b) Any individual, including an authorized individual, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this law.

(c) When the Community/Public Health Officer deems it necessary that an individual be quarantined, isolated, or otherwise restricted in a separate place, the Community/Public Health Officer shall have that individual removed to such a designated place, if it can be done without danger to the individual's health.

302.7-6. *Action when a Public Health Emergency is Proclaimed.* In addition, when a public health emergency is proclaimed, the Community/Public Health Officer may do all of the following, as necessary:

(a) organize the vaccination of individuals;

(1) The following types of individuals shall not be subject to a vaccination:

(A) an individual who the vaccination is reasonably likely to lead to serious harm to the individual; and

(B) an individual, for reason of religion or conscience, refuses to obtain the vaccination.

(b) isolate or quarantine individuals, including those who are unable or unwilling to receive a vaccination; and

(c) prevent any individual, except for those individuals authorized by the Community/Public Health Officer, from entering an isolation or quarantine premises.

302.7-7. The Oneida Police Department shall take enforcement action when necessary and work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine, isolation, or other restrictions on communicable disease are violated or intent to violate becomes apparent.

302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's care and support.

302.8. Proclamation of an Emergency

302.8-1. *Proclamation of an Emergency.* The Oneida Business Committee shall be responsible for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or presidential declaration.

(a) The Director may request that the Oneida Business Committee proclaim the existence of an emergency. The Oneida Business Committee may proclaim the existence of an emergency without a request from the Director, if warranted.

(b) In the event the Oneida Business Committee is unable to proclaim or ratify the existence of an emergency, the Director may proclaim an emergency which shall be in effect until such time the Oneida Business Committee can officially ratify this declaration.

302.8-2. No proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the Oneida Business Committee.

302.8-3. *Management Network.* The emergency management network of the Reservation shall be as specified in the Emergency Response Plan, as adopted by the Oneida Business Committee.

302.8-4. *After-Action Report.* After an emergency has subsided, the Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee, any interested entity, and the public. This report shall be presented to the required parties no later than sixty (60) days after the emergency has subsided, unless an extension is granted by the Oneida Business Committee.

302.8-5. During a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock. The Conservation Department may delegate this responsibility to a contracted agency.

302.9. Emergency Core Decision Making Team

302.9-1. *Emergency Core Decision Making Team.* Upon the proclamation of an emergency under this law, the Oneida Business Committee may establish an Emergency Core Decision Making Team through the adoption of a motion. The motion shall identify the positions of the Nation which shall make up the members of the Emergency Core Decision Making Team based on the type and severity of emergency the Nation is experiencing.

302.9-2. *Delegation of Authority.* The Emergency Core Decision Making Team shall have emergency authority to take the following actions:

(a) Notwithstanding any requirements of the Legislative Procedures Act, declare exceptions to the Nation's laws 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; and

(b) Notwithstanding any requirements in any policy, procedure, regulation, or standard operating procedures, declare exceptions to any policy, procedure, regulation, or standard operating procedure 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.

302.9-3. *Declarations.* All declarations made by the Emergency Core Decision Making Team shall:

(a) be written on the Nation's letterhead;

(b) provide the date the declaration was issued;

(c) contain a clear statement of the directives;

(d) provide the date the directive shall go into effect;

(e) be signed by the Oneida Business Committee Chairperson, or Vice Chairperson in the Chairperson's absence; and

(f) be posted on the Nation's website.

302.9-4. *Duration of Authority for Exceptions Declared by the Emergency Core Decision Making Team.* Any declaration made under the authority granted in this section shall be effective upon the date declared by the Emergency Core Decision Making Team and shall be effective for the duration of any proclaimed emergency, or for a shorter time period if identified.

302.9-5. *Notification to the Oneida Business Committee.* Within twenty-four (24) hours of a declaration being made, the Emergency Core Decision Making Team shall provide notification of the declaration to the Oneida Business Committee.

302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or emergency action taken by the Emergency Core Decision Making Team.

302.10. Enforcement and Penalties

302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct, hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued thereunder, whether or not an emergency has been proclaimed.

302.10-2. *Citations.* An Oneida Police Department officer may issue a citation to any person who violates a provision of this law.

(a) A citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.

(b) The Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this law.

302.10-3. *Disciplinary Action.* An employee of the Nation who violates this law during their work hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action in accordance with the Nation's laws and policies governing employment.

(a) An employee of the Nation who is disciplined under this law may appeal the disciplinary action in accordance with the Nation's laws and policies governing employment.

End.

Adopted - BC-07-15-98-A

Amended - BC-12-20-06-G

Emergency Amended – BC-04-30-09-A (Influenza A (H1N1))

Amended - BC-05-13-09-F

Emergency Amended – BC-03-17-20-E (COVID-19)

Extension of Emergency – BC-08-26-20-A

Amended – BC-__-__-__-__

December 2020

December 2020

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January 2021

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| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---------|---|--|--------------------------------------|----------|
| Nov 29 | 30 | Dec 1 | 2 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 1:30pm LOC Work Session (BC_Conf_Room) - Clorissa N. Santiago | 11 | 12 |
| 13 | 14 | 15 | 16 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 12:00pm Holiday Half Day - Christmas Eve | 25 8:00am Holiday Off - Christmas | 26 |
| 27 | 28 | 29 | 30 | 31 | Jan 1, 21 | 2 |