



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
January 20, 2021
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 16, 2020 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Community Support Fund Law Amendments (pg. 3)
2. Emergency Management and Homeland Security Law Amendments (pg. 46)
3. Oneida Nation Emergency Planning Committee Bylaws Amendments (pg. 75)

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Landlord-Tenant Law Rule No. 2 Income Based Rental Program Eligibility, Selection and Other Requirements: Emergency Amendments (pg. 99)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
December 16, 2020
9:00 a.m.

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

Excused: Jennifer Webster

Others Present: Clorissa N. Santiago, Aliskwet Ellis, Rhiannon Metoxen

I. Call to Order and Approval of the Agenda

David Jordan called the December 16, 2020, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

1. December 2, 2020 LOC Meeting Minutes

Motion by Daniel Guzman King to approve the December 2 LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

III. Current Business

1. Community Support Fund Law Amendments

Motion by Daniel Guzman King to approve the 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; seconded by Kirby Metoxen. Motion carried unanimously.

2. Emergency Management and Homeland Security Law Amendments

Motion by Kirby Metoxen to 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; seconded by Marie Summers. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:14 a.m.; seconded by Marie Summers. Motion carried unanimously.





Legislative Operating Committee
January 20, 2021

Community Support Fund Law Amendments

Submission Date: 10/7/20	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 1/13/20.
LOC Sponsor: David P. Jordan	Emergency Enacted: N/A

Summary: *On September 2, 20210, 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.

12/16/20 LOC: Motion by Daniel Guzman King to approve the 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; seconded by Kirby Metoxen. Motion carried unanimously.

1/13/21: *Public Comment Period Closes.* One (1) submission of written comments was received during the public comment period.

Next Steps:

- Accept the public comments and public comment review memorandum and defer to a work meeting for further consideration



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: January 20, 2021
RE: Community Support Fund Law Amendments: Public Comment Review

A public comment period for the proposed amendments to the Community Support Fund law (“the Law”) was held open until January 13, 2021. A public meeting for the proposed amendments to this Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Oneida Business Committee has extended this Public Health State of Emergency until February 11, 2021, through the adoption of the following resolutions: BC-03-26-20-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, BC-12-09-20-D, and BC-01-07-21-A.

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 the Nation’s COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration suspended public meetings and therefore no public meeting was scheduled for the amendments to the Community Support Fund law, on December 16, 2020, the Legislative Operating Committee direct that a public comment period be held open until January 13, 2021, to allow members of the community an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail.

This memorandum is submitted as a review of the written comments received within the public comment period. The public meeting draft and written comments received are attached to this memorandum for review.

Comment 1 – Definition of Fund Operator:

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.

(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.**

Susan House (written): Hello, I am only suggesting one change from “area” to “department”. It just helps to clarify because we do have Area Managers still in the organization, HRD has its interpretation of Area Manager levels, so changing to department just helps to clarify. I added my comments in blue.

Clip of Comments from Legislative Analysis

<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; <i>Change area to department to clarify who is Fund Operator</i>

Clip of Comments from Redline Draft

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

Clip of Comments from Clean Draft

53 (i) “Fund Operator” means the Economic Support Services Department, or other ~~area~~ *Change area to*
 54 within the Governmental Services Division designated authority over the operation of the *department to*
 55 Fund. *clarify who is the*
 56 (j) “Immediate family” means an applicant’s husband, wife, mother, father, son, daughter, *Fund Operator.*
 57 brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and any of *We have Area’s,*
 58 these relations attained through marriage or legal adoption, as well as a person who has *Area Managers,*
 59 legal responsibility for the applicant, or a person the applicant has legal responsibility of. *and a different*
 60 (k) “Legal guardian” means a person who has the legal authority to care for the personal *definition of Area*
 61 and property interests of another person granted through Court order. *Managers in the*
 62 (l) “Legal responsibility” means specific duties imposed upon a person to care or provide *Appeal process.*
 63 for another including liability for personal obligations as granted through a Power of *Changing to*
 64 Attorney or Court order. *department assist*
in adding clarity

Response

The commenter suggests that the definition of “Fund Operator” be revised so that it states that the Fund Operator means the Economic Support Services Department, or other *department* within the Governmental Services Division designated authority over the operation of the Fund, instead of other *area* within the Governmental Services Division. The commenter makes this recommendation in an effort to avoid confusion with area managers in the Governmental Services Division.

It is recommended that the Legislative Operating Committee make the following revision to the draft based on this comment:

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.

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

LOC Consideration

Title 1. Government and Finances – Chapter 125**COMMUNITY SUPPORT FUND****Kaya'takenhásla tsi' niyukwana'táyá***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 ~~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:

(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) All household income the last thirty (30) business days immediately prior to the submission of the application; and~~

~~(e)~~ (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 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-__-__-__-__

From: [Susan M. House](#)
To: [Clorissa N. Santiago](#)
Subject: my suggestions to the Community Support Fund Law Amendments
Date: Wednesday, January 13, 2021 4:10:38 PM
Attachments: [Community Support Fund Law Amendments Public Comment Period Packet changes in blue.pdf](#)

Hello,

I am only suggesting one change from “area” to “department”. It just helps to clarify because we do have Area Managers still in the organization, HRD has its interpretation of Area Manager levels, so changing to department just helps to clarify.

I added my comments in blue.

Susan M. House



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

Office: 920-490-3806
Cell: 920-606-6161
Address: 909 Packerland Drive, Green Bay, WI 54303

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

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 CLOSSES 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; <i>Change area to department to clarify who is Fund Operator</i> 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 at 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·táyá***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 ~~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.);~~ or

(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~~ department 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:

(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) All household income the last thirty (30) business days immediately prior to the submission of the application; and~~

~~(e)~~ (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 ~~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. Change area to department to clarify who is the Fund Operator. We have Area's, Area Managers, and a different definition of Area Managers in the Appeal process. Changing to department assist in adding clarity
- (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
January 20, 2021

Emergency Management and Homeland Security Law Amendments

Submission Date: 3/17/20	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 1/13/20.
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.

12/16/20 LOC: Motion by Kirby Metoxen to 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; seconded by Marie Summers. Motion carried unanimously.

1/13/21: *Public Comment Period Closes.* Three (3) submissions of written comments were received during the public comment period.

Next Steps:

- Accept the public comments and public comment review memorandum and defer to a work meeting for further consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: January 20, 2021
RE: Emergency Management and Homeland Security Law Amendments: Public Comment Review

A public comment period for the proposed amendments to the Emergency Management and Homeland Security law (“the Law”) was held open until January 13, 2021. A public meeting for the proposed amendments to this Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Oneida Business Committee has extended this Public Health State of Emergency until February 11, 2021, through the adoption of the following resolutions: BC-03-26-20-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, BC-12-09-20-D, and BC-01-07-21-A.

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 the Nation’s COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration suspended public meetings and therefore no public meeting was scheduled for the amendments to the Emergency Management and Homeland Security law, on December 16, 2020, the Legislative Operating Committee directed that a public comment period be held open until January 13, 2021, to allow members of the community an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail.

This memorandum is submitted as a review of the written comments received within the public comment period. The public meeting draft and written comments received are attached to this memorandum for review.

Comments 1 through 3 – Authority of the Community/Public Health Officer to Order the Vaccination of an Individual:

302.7. Public Health Emergencies

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.

Michelle Myers (written): After participation in the recent work sessions for the review and update of Oneida's Emergency Management Law, Comprehensive Health Division provides the following feedback:

Comprehensive Health Division is agreeable to most of the suggested changes. However, it is important to keep in mind the Oneida Emergency Management Law designates roles, responsibilities and authority to respond for all emergencies within the Oneida Reservation. It is critical we consider changes to the law through the lens of comprehensive emergency management and not only as it applies to the COVID-19 pandemic response.

The language in section 302.7-6 regarding the authority of the Community/Public Health Officer to order an individual to take a vaccine during a public health emergency should remain as currently written. To remove or alter this language weakens the authority and a valuable tool a public health officer may need to control the spread of a vaccine preventable communicable disease in the Oneida Community.

I believe the desire to change the language is coming from a place of fear that the public health officer would require someone to receive the COVID-19 vaccine. As currently written, the law identifies there are those that would not have to comply with vaccination orders. As for the COVID-19 vaccine, although highly encouraged by public health, there are no discussion or intentions to force anyone to receive the COVID-19 vaccine.

Thank you for your consideration. Please feel free to contact me with any questions.

Michelle Myers, BSN, RN
Community/ Public Health Officer

Kaylynn Gresham (written): Emergency Management had the opportunity to participate in the recent work sessions where the Nation's Emergency Management Law was reviewed and now has proposed updates. Emergency Management is in support of most of the changes suggested. Upon further discussion of the proposed changes with the Community/Public Health Officer and the EM

Staff Attorney it is my opinion that the language in section 302.7-6 regarding the authority of the Community/Public Health Office should remain as previously written;

302.7-6. Action when a Public Health Emergency is Proclaimed.

When a public health emergency is proclaimed, the Public Health Officer may do all of the following, as necessary:

(a) order an individual to receive a vaccination, 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;

It is my opinion that the changing the language to read;

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.

will weaken the authority of the Community/Public Health Officer. As I understand the language before the proposed changes, it does state that an individual has the right to refuse the order to vaccinate.

Public Health Officers throughout the State of WI have the authority to order vaccinations of individuals. Since the Oneida Nation is a Public Law 208 Tribe, giving the state concurrent jurisdiction within the Reservation boundaries, a Public Health Officer in either Brown or Outagamie County has the ability to order the vaccination of an individual within our boundaries. As a Sovereign Nation I do not suggest that we weaken the authority of our Community/Public Health Officer by removing this authority from the Law or changing the language of the Law.

It is also my opinion that the language should stay as originally drafted, looking forward, updates to the law should be made keeping future potential outbreaks in mind, there are communicable diseases that could inundate the community for which vaccines have already been developed. Secondly, changing the language to state that the Community/Public Health Officer will “organize the vaccination of individuals” contradicts that Oneida Nation’s Emergency Response Plan and the Nation’s Emergency Support Functions which identify specific areas of the Nation that have been designated those responsibilities.

I do appreciate the dialogue that the group had during the work sessions, after having time to further discuss the proposed changes it is my opinion that Section 302.7-6 should remain as drafted in the current law and not changed.

Thank you for your consideration, please feel free to contact me with any questions.

Kaylynn Gresham
Director Emergency Management
Oneida Nation

Kelly McAndrews (written): I have reviewed the comments provided to you by both the Emergency Management Coordinator and Public Health Officer. Both have expressed concern over changing the current language in the Emergency Management and Homeland Security law from:

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

- (a) order an individual to receive a vaccination, 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;

To

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.

The Emergency Management Coordinator and Public Health Official have presented several concerns, some based on disaster management and public health principals and some based on legal principles. From a legal perspective, I am offering two additional points to consider:

1. Changing the existing language to “order organize” creates uncertainty and vagueness in the law. This uncertainty and vagueness has not previously existed. This vagueness may create implementation and enforcement uncertainty.
2. The current language offering the right of objection based on religion or conscience codified a standard consistent (but slightly broader) with 42 U.S.C.S. § 2200bb-1 (the ‘least restrictive means’ test).

The ‘least restrictive means’* test is well litigated and implementation of the standard comes with well established principles. This makes settling a legal dispute on the matter clearer, and administration of the standard for emergency management and public health officials easier. For a recent explanation of the history and implementation of the standard (which in this context has been limited to religious grounds) see generally *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

However, even without 42 U.S.C.S. § 2200bb-1 there is an earlier body of cases that adhere to similar principles based on the ‘free exercise clause’ of the United States Constitution. As you will see in the case development of the ‘least restrictive means’ test, codification of the ‘least restrictive means’ test became an issue after a decision affecting the religious practices of the Native American Church. See *Sherbert v. Verner*, 374 U.S. 398, 83 S. Ct. 1790, 10 L. Ed. 2d 965

(1963); and *Wisconsin v. Yoder*, 406 U.S. 205, 92 S. Ct. 1526, 32 L. Ed. 2d 15 (1972); also *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990).

Thus, from my perspective, as the attorney who represents Emergency Management and Public Health including in litigation, I request the language that currently exists remain unchanged.

Please let me know if you need these comments in another format or if this e-mail comment is sufficient.

-Kelly McAndrews

* The ‘least restrictive means’ test allows government to substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

Response

All the commenters provide that the Law should remain as previously drafted and provide the Community/Public Health Officer the authority to order an individual to receive a vaccination when a public health emergency is proclaimed, 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. The commenters oppose the proposed amendment to the Law which removes the authority of the Community/Public Health Officer to order an individual to receive a vaccination and instead provides that the Community/Public Health Officer may organize the vaccination of individuals. Both the proposed amendments and the previously drafted version of the Law provide that an individual shall not be subject to a vaccination if the vaccination is reasonably likely to lead to serious harm to the individual or if the individual, for reason of religion or conscience, refuses to obtain the vaccination.

The Legislative Operating Committee made the policy decision to revise the authority of the Community/Public Health Officer from *ordering* the vaccination of an individual to *organizing* the vaccination of individuals because members of the Legislative Operating Committee were uncomfortable delegating such authority to one individual and instead believe that the decision to obtain a vaccination should always remain the personal decision of an individual.

The commenters ask the Legislative Operating Committee to reconsider this decision for a variety of reasons. Some reasons focus on the fact that removing or altering this language may weaken the authority of the Community/Public Health Officer and eliminate a valuable tool the Community/Public Health Officer may need to use in the future to control the spread of a preventable communicable disease in the Oneida Community, a tool that is available to other Public Health Officers throughout the State of Wisconsin. The commenters also provide that the exemptions to an ordered vaccination provided in the original language of the Law – individuals who may be seriously harmed by the vaccination or individuals, who for reason of religion or conscience, refuses to obtain the vaccination – coupled with established case law and legal

principles provide protections to those individuals who for reason of religion or conscience refuse to obtain the vaccine.

Additionally, the comment made by Attorney Kelly McAndrews that “*Changing the existing language to “order organize” creates uncertainty and vagueness in the law. This uncertainty and vagueness has not previously existed. This vagueness may create implementation and enforcement uncertainty.*” references a typo that was made in the public comment by Kaylynn Gresham.

Whether to reconsider the revision of authority of the Community/Public Health Officer from ordering the vaccination of an individual to organizing the vaccination of individuals is a policy decision for the Legislative Operating Committee. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted and section 302.7-6(a) shall provide that when a public health emergency is proclaimed, the Community/Public Health Officer may organize the vaccination of individuals.
2. The Law should be revised to reflect the authority of the Community/Public Health Officer to order the vaccination of an individual that was previously provided in the Law. If the Legislative Operating Committee makes this decision, then the following revision should be made to the proposed draft of amendments:

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~~ **order** the vaccination of **an** 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.

LOC Consideration

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)~~sixty (60) 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 longerlater 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

=

~~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-__-__-__-__

Oneida Comprehensive Health Division

Oneida Community Health Center
 Behavioral Health Services
 Anna John Resident Centered Care Community
 Employee Health Nursing



Date: December 16, 2020

To: Legislative Operating Committee

From: Michelle Myers, Community Health Services

Thru: Debra Danforth, Comprehensive Health Division Operations Director

Dr Ravi Vir, Comprehensive Health Division Medical Director

RE: Recommendations for proposed changes to Emergency Management Law

After participation in the recent work sessions for the review and update of Oneida's Emergency Management Law, Comprehensive Health Division provides the following feedback:

Comprehensive Health Division is agreeable to most of the suggested changes. However, it is important to keep in mind the Oneida Emergency Management Law designates roles, responsibilities and authority to respond for all emergencies within the Oneida Reservation. It is critical we consider changes to the law through the lens of comprehensive emergency management and not only as it applies to the COVID-19 pandemic response.

The language in section 302.7-6 regarding the authority of the Community/Public Health Officer to order an individual to take a vaccine during a public health emergency should remain as currently written. To remove or alter this language weakens the authority and a valuable tool a public health officer may need to control the spread of a vaccine preventable communicable disease in the Oneida Community.

I believe the desire to change the language is coming from a place of fear that the public health officer would require someone to receive the COVID-19 vaccine. As currently written, the law identifies there are those that would not have to comply with vaccination orders. As for the COVID-19 vaccine, although highly encouraged by public health, there are no discussion or intensions to force anyone to receive the COVID-19 vaccine.

Thank you for your consideration. Please feel free to contact me with any questions.

Michelle Myers, BSN, RN

Community/ Public Health Officer

Mailing Address: P.O. Box 365, Oneida, WI 54155
<https://oneida-nsn.gov/resources/health/>

Oneida Community Health Center
 Behavioral Health Services
 Anna John Resident Centered Care Community
 Employee Health Nursing

525 Airport Dr., Oneida, WI 54155
 2640 West Point Rd., Green Bay, WI 54304
 2901 S. Overland Rd., Oneida, WI 54155
 701 Packerland Dr., Green Bay, WI 54303

Phone: (920) 869-2711 or 1-866-869-2711
 Phone: (920) 490-3790 or 1-888-490-2457
 Phone: (920) 869-2797
 Phone: (920) 405-4492

Fax: (920) 869-1780
 Fax: (920) 490-3883
 Fax: (920) 869-3238
 Fax: (920) 405-4494



Oneida Nation
Office of Emergency Management
2783 Freedom Road, Oneida WI 54155
o-920-869-6650, c-920-366-0411
kgresham@oneindanation.org

TO: Legislative Operating Committee
FM: Emergency Management
REF: Proposed Changes to Emergency Management Law
Date: January 5, 2021

Emergency Management had the opportunity to participate in the recent work sessions where the Nation's Emergency Management Law was reviewed and now has proposed updates.

Emergency Management is in support of most of the changes suggested. Upon further discussion of the proposed changes with the Community/Public Health Officer and the EM Staff Attorney it is my opinion that the language in section 302.7-6 regarding the authority of the Community/Public Health Office should remain as previously written;

302.7-6. Action when a Public Health Emergency is Proclaimed.

When a public health emergency is proclaimed, the Public Health Officer may do all of the following, as necessary:

(a) order an individual to receive a vaccination, 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;

It is my opinion that the changing the language to read;

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.

will weaken the authority of the Community/Public Health Officer. As I understand the language before the proposed changes, it does state that an individual has the right to refuse the order to vaccinate.

Public Health Officers throughout the State of WI have the authority to order vaccinations of individuals. Since the Oneida Nation is a Public Law 208 Tribe, giving the state concurrent jurisdiction within the Reservation boundaries, a Public Health Officer in either Brown or Outagamie County has the ability to order the vaccination of an individual within our boundaries. As a Sovereign Nation I do not suggest that we weaken the authority of our Community/Public Health Officer by removing this authority from the Law or changing the language of the Law.

It is also my opinion that the language should stay as originally drafted, looking forward, updates to the law should be made keeping future potential outbreaks in mind, there are communicable diseases that could inundate the community for which vaccines have already been developed. Secondly, changing the language to state that the Community/Public Health Officer will “organize the vaccination of individuals” contradicts that Oneida Nation’s Emergency Response Plan and the Nation’s Emergency Support Functions which identify specific areas of the Nation that have been designated those responsibilities.

I do appreciate the dialogue that the group had during the work sessions, after having time to further discuss the proposed changes it is my opinion that Section 302.7-6 should remain as drafted in the current law and not changed.

Thank you for your consideration, please feel free to contact me with any questions.

Kaylynn Gresham
Director Emergency Management
Oneida Nation

From: Kelly M. McAndrews
To: Clorissa N. Santiago
Cc: Michelle L. Myers; Kaylynn Gresham
Subject: Comment from Kelly McAndrews; RE: 2020 12 16 Emergency Management and Homeland Security Law Draft 1 (Redline to Current).pdf
Date: Wednesday, January 13, 2021 1:12:12 PM

Hello Clorissa,

I have reviewed the comments provided to you by both the Emergency Management Coordinator and Public Health Officer. Both have expressed concern over changing the current language in the Emergency Management and Homeland Security law from:

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

(a) order an individual to receive a vaccination, 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;

To

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.

The Emergency Management Coordinator and Public Health Official have presented several concerns, some based on disaster management and public health principals and some based on legal principles. From a legal perspective, I am offering two additional points to consider:

1. Changing the existing language to "order organize" creates uncertainty and vagueness in the law. This uncertainty and vagueness has not previously existed. This vagueness may create implementation and enforcement uncertainty.
2. The current language offering the right of objection based on religion or conscience codified a standard consistent (but slightly broader) with 42 U.S.C.S. § 2200bb-1 (the 'least restrictive means' test).

The 'least restrictive means'* test is well litigated and implementation of the standard comes with well established principles. This makes settling a legal dispute on the matter clearer, and administration of the standard for emergency management and public health officials easier. For a recent explanation of the history and implementation of the standard (which in this context has been limited to religious grounds) *see generally Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

However, even without 42 U.S.C.S. § 2200bb-1 there is an earlier body of cases that adhere

to similar principles based on the 'free exercise clause' of the United States Constitution. As you will see in the case development of the 'least restrictive means' test, codification of the 'least restrictive means' test became an issue after a decision affecting the religious practices of the Native American Church. See Sherbert v. Verner, 374 U.S. 398, 83 S. Ct. 1790, 10 L. Ed. 2d 965 (1963); and Wisconsin v. Yoder, 406 U.S. 205, 92 S. Ct. 1526, 32 L. Ed. 2d 15 (1972); also Employment Div., Dept. of Human Resources of Ore. v. Smith, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990).

Thus, from my perspective, as the attorney who represents Emergency Management and Public Health including in litigation, I request the language that currently exists remain unchanged.

Please let me know if you need these comments in another format or if this e-mail comment is sufficient.

-Kelly McAndrews

* The 'least restrictive means' test allows government to substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.



Legislative Operating Committee
January 20, 2021

Oneida Nation Emergency Planning Committee Bylaws Amendments

Submission Date: 2/5/20	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *This item was carried over from the previous term. In February of 2020, Kaylynn Gresham requested that the Oneida Nation Emergency Planning Committee's bylaws be updated and amended to comply with the Boards, Committees and Commissions law. At the time this request was made, the Committee had been in-active and Ms. Gresham was attempting to re-establish it in accordance with governing law.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Oneida Nation Emergency Planning Committee Bylaws Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

12/16/20: *Work Meeting.* Present: David Jordan, Marie Summers, Kirby Metoxen, Daniel Guzman-King, Jennifer Webster (arrived late), Clorissa Santiago, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to go through the proposed amendments to the Oneida Nation Emergency Planning Committee Bylaws with the LOC. Next steps are for the drafting attorney to finalize the amendments and send them off to ONEPC for review; to prepare a legislative analysis of the ONEPC bylaws; and to place the adoption packet for the ONEPC bylaws on an upcoming LOC meeting agenda for consideration and approval to forward to the Oneida Business Committee for possible adoption.

Next Steps:

- Accept the Oneida Nation Emergency Planning Committee Bylaws Amendments and Legislative Analysis.
- Forward the Oneida Nation Emergency Planning Committee Bylaws Amendments to the Oneida Business Committee for consideration.

Draft 1 for OBC Consideration
2020 01 20

ONEIDA NATION EMERGENCY PLANNING COMMITTEE BYLAWS

Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Nation Emergency Planning Committee and may be referred to as the ONEPC.
- 1-2. *Establishment.* The ONEPC was established under the Emergency Management law (f/k/a the Oneida Emergency Services Ordinance and Emergency Management and Homeland Security law, respectively), which was adopted by the Oneida Business Committee through resolution BC-7-15-98-A and subsequently amended by resolutions BC-12-20-06-G and BC-5-13-09-F.
- 1-3. *Authority.* The ONEPC was established to serve as the Nation's emergency planning and oversight committee, responsible for including, but not limited to, the following:
- (a) To assist the Director of the Emergency Management Department ("Director") in drafting and maintaining the Nation's Emergency Response Plan ("Plan");
 - (b) At the request of the Director, to assist with the implementation of the Emergency Management law and/or any Plan issued thereunder; and
 - (c) To carry out any other power and/or duty delegated to the ONEPC through the laws of the Nation, including, but not limited to, the Emergency Management law, as may be amended from time-to-time hereafter.
- 1-4. *Office.* The official mailing address of the ONEPC shall be:
c/o Office of Emergency Management
P.O. Box 365
Oneida, Wisconsin 54155
- 1-5. *Membership.* The ONEPC shall be made up as identified in this section.
- (a) *Number of Members.* Subject to subsection (d) of this section, the ONEPC shall be comprised of between seven (7) and eight (8) members, plus six (6) alternate members, (collectively "members") to be made up of the following individuals:
 - (1) One (1) member and one (1) alternate member shall be employed within the Oneida Police Department;
 - (2) One (1) member and one (1) alternate member shall be employed within the Nation's Division of Public Works;
 - (3) One (1) member and one (1) alternate member shall be employed within the Nation's Comprehensive Health Division;
 - (4) One (1) member and one (1) alternate member shall be employed within the Nation's Community Economic and Development

Draft 1 for OBC Consideration
2020 01 20

- 44 Division;
- 45 (5) One (1) member and one (1) alternate member shall be employed
- 46 within the Nation's Environmental, Health, Safety, Land and
- 47 Agriculture Division;
- 48 (6) One (1) member and one (1) alternate member shall be employed
- 49 within the Nation's Gaming Division; and
- 50 (7) At least one (1) but no more than two (2) members shall be
- 51 representatives from the Oneida community.
- 52 (A) The number of community representatives shall be decided
- 53 by majority vote of the members present at an ONEPC
- 54 meeting of an established quorum.
- 55 (b) *Appointment.* Members of the ONEPC shall be appointed by the Oneida
- 56 Business Committee in accordance with the Boards, Committees and
- 57 Commissions law.
- 58 (1) The terms of the ONEPC membership shall be as follows:
- 59 (A) The term for members listed in section 1-5(a)(1)-(6) of these
- 60 bylaws shall coincide with the term of their employment
- 61 within the position that qualifies them for membership.
- 62 (B) The term for members listed in section 1-5(a)(7) of these
- 63 bylaws shall be three (3) years.
- 64 (2) The ONEPC Chairperson shall review all application materials and
- 65 submit a recommendation for appointment to the Oneida Business
- 66 Committee in accordance with the Boards, Committees and
- 67 Commissions law.
- 68 (A) The recommendation of the ONEPC Chairperson shall be
- 69 determined by majority vote of the members present at an
- 70 ONEPC meeting of an established quorum.
- 71 (c) *Vacancies.* Vacancies of the ONEPC shall be filled in accordance with the
- 72 Boards, Committees and Commissions law.
- 73 (1) A seat on the ONEPC shall be considered vacant as follows:
- 74 (A) *End of Term.* A vacancy is effective as of 4:30 p.m. on the
- 75 last day of the month in which the term ends.
- 76 (i) Although a member's position is considered vacant
- 77 once his or her term ends, that member may remain
- 78 in office until a successor has been sworn in by the
- 79 Oneida Business Committee.
- 80 (B) *Termination of Appointment.* An ONEPC member may have
- 81 his or her appointment terminated by the Oneida Business
- 82 Committee in accordance with the Boards, Committees and
- 83 Commissions law.
- 84 (C) *Resignation.* An ONEPC member may resign at any time
- 85 verbally at a meeting or by delivering written notice to the
- 86 Business Committee Support Office and the ONEPC Chair-

Draft 1 for OBC Consideration
2020 01 20

person or Chairperson's designee. The resignation is deemed effective upon:

- (i) Deliverance of the written notices to the Business Committee Support Office and the ONEPC Chairperson or Chairperson's designee; or
- (ii) Acceptance by motion of the ONEPC of a member's verbal resignation.

(d) *Qualifications of Members.*

- (1) To qualify for membership on the ONEPC, all applicants must:
 - (A) Be enrolled members of the Oneida Nation;
 - (B) Reside within the boundaries of the Oneida Nation;
 - (C) Be at least twenty-one (21) years of age;
 - (D) Be eligible to serve under the conflicts of interest provisions set forth in the Boards, Committees and Commissions law; and
 - (E) Pass a background check.
- (2) To qualify for membership under section 1-5(a)(1)-(6) of these bylaws, applicants must further:
 - (A) Be an employee of the respective division, department or office they are applying to represent; and
 - (B) Submit a letter of recommendation from the head of such division, department or office.

1-6. *Termination.* Upon majority vote of the members present at an ONEPC meeting of an established quorum, the ONEPC may recommend that the Oneida Business Committee terminate the appointment of an ONEPC member pursuant to the Boards, Committees and Commissions law.

- (a) The ONEPC may recommend the Oneida Business Committee terminate a member's appointment based on the following:
 - (1) A member accumulates three (3) or more unexcused absences from a scheduled ONEPC meeting within a one (1) year period; or
 - (A) An ONEPC member shall be deemed unexcused if he or she fails to provide written notice of the absence to an ONEPC Officer at least thirty (30) minutes before the missed meeting.
 - (2) A material violation of these bylaws and/or any other laws or policies of the Nation.

1-7. *Trainings and Conferences.* Mandatory trainings/conferences for members of the ONEPC shall be as follows:

- (a) Members are required to obtain a certificate of training for ICS 100 and ICS 200 classes.
- (b) At the Director's request, members shall attend the Wisconsin Emergency

Draft 1 for OBC Consideration
2020 01 20

Management Conference and the Wisconsin Emergency Management Association Conference on an annual basis.

- (c) Regardless of the number of trainings/conferences that he or she is required to attend, no ONEPC member shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.

(1) The Emergency Management Department will provide funding for registration, transportation and per-diem to any ONEPC member who attends either of the conferences listed in subsection (b) of this section.

(2) ONEPC members must receive a signed travel authorization from the Director before attending a training or conference hereunder.

Article II. Officers

2-1. *Officers.* The ONEPC shall have three (3) Officer positions, consisting of a Chairperson, a Vice-Chairperson and a Secretary, who shall hold office for three (3) year terms.

2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the Chairperson shall be as follows:

- (a) To call all meetings and, with the Secretary's assistance, notify all ONEPC members of meetings in accordance with these bylaws and the Boards, Committees and Commissions law;
- (b) To preside over all meetings of the ONEPC;
- (c) To submit, or have submitted through a designee, annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, consistent with the Boards, Committees and Commissions law; and
- (d) To attend, or designate an ONEPC member to attend, the Oneida Business Committee meeting in which the ONEPC's quarterly report appears on the agenda.

2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of the Vice-Chairperson shall be as follows:

- (a) To preside over all meetings of the ONEPC in the absence of the Chairperson and appoint a Vice-Chairperson for that meeting;
- (b) To work with the Chairperson on all matters that concern the ONEPC; and
- (c) In the event of a vacancy of the Chairperson, to fill the Chairperson position until such time as an election can be held in accordance with section 2-6 of these bylaws.

2-4. *Responsibilities of the Secretary.* The responsibilities, duties and limitations of the Secretary shall be as follows:

Draft 1 for OBC Consideration

2020 01 20

- 173 (a) To ensure that the minutes of all ONEPC meetings are recorded, reported
 174 and maintained in accordance with these bylaws, the Boards, Committees
 175 and Commissions law, and the Open Records and Open Meetings law;
 176 (b) In the event both the Chairperson and Vice-Chairperson positions become
 177 vacant before the end of their terms, to call ONEPC meetings to fill the
 178 vacancies and to preside over the meetings for the sole purpose of
 179 conducting an election of new Officers, at which point the Chairperson, or
 180 Vice-Chairperson in the absence of the Chairperson, shall preside; and
 181 (c) To assist the Chairperson in providing the notice in section 2-2(a) of these
 182 bylaws and, at least seventy-two (72) hours before each meeting, to further
 183 provide notice of all meetings, meeting agendas, documents and minutes
 184 pursuant to these bylaws, the Boards, Committees and Commissions law,
 185 and the Open Records and Open Meetings law.
 186
- 187 2-5. *Ad Hoc Committees.* The ONEPC may create ad hoc committees when it deems necessary
 188 to serve at the pleasure of the ONEPC.
 189 (a) Ad hoc committees of the ONEPC shall be created, operated and dissolved
 190 in accordance with the Boards, Committees and Commissions law.
 191 (b) Ad hoc committees may contain non-ONEPC members.
 192 (c) Members of ad hoc committees shall not be eligible for stipends unless a
 193 specific exception is made by the Oneida Business Committee or Oneida
 194 General Tribal Council.
 195
- 196 2-6. *Selection of Officers.* ONEPC Officers shall be elected by a majority vote of the members
 197 present at an ONEPC meeting of an established quorum.
 198 (a) Members may be dismissed from their Officer positions by a majority vote
 199 of the members present at an ONEPC meeting of an established quorum.
 200 (b) In the event of a vacancy before the end of an Officer's term, a successor
 201 shall be elected by majority vote of the members present at an ONEPC
 202 meeting of an established quorum for the duration of the unexpired term.
 203 (c) Officers shall hold no more than one (1) Officer position per Officer term.
 204
- 205 2-7. *Purchases and Travel.* The ONEPC shall follow the Nation's policies and procedures
 206 regarding purchasing and sign-off authority.
 207 (a) The levels of budgetary sign-off authority for the ONEPC shall be as set
 208 forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*
 209 *Policies and Procedures*, for Area Directors/Enterprise Directors.
 210 (1) All ONEPC Officers have sign-off authority and two (2) Officers
 211 shall be required to sign-off on all budgetary requests.
 212 (A) Upon formal approval of a purchase by the ONEPC, the
 213 Business Committee Support Office shall have official
 214 budgetary sign-off authority for the ONEPC.
 215 (b) The ONEPC shall approve a member's request to travel on behalf of the

Draft 1 for OBC Consideration
2020 01 20

ONEPC by majority vote of the members present at a regular or emergency ONEPC meeting of an established quorum.

- 2-8. *Personnel.* The ONEPC shall not have the authority to hire personnel for the benefit of the ONEPC.

Article III. Meetings

- 3-1. *Regular Meetings.* Meetings of the ONEPC shall be held every month during regular business hours at a location within the Reservation boundaries.

- (a) The date, time and location of the meetings shall be set at the first ONEPC meeting of an established quorum by majority vote of the members present.

- (1) The ONEPC meeting date, time and/or location may change from time-to-time as determined by majority vote of the members present at an ONEPC meeting of an established quorum so long as notice is provided in accordance with the Nation's Open Records and Open Meetings law prior to the implementation of a new date, time and/or location.

- (b) The Secretary shall provide written notice of meeting agendas, documents, and minutes to all ONEPC members at least seventy-two (72) hours before each meeting and shall further provide notice of the same in accordance with the Nation's Open Records and Open Meetings law.

- (c) ONEPC meetings may be attended in person, by telephone, through video-conferencing or through other telecommunications so long as presence at the meeting occurs and is demonstrated in accordance with the Boards, Committees and Commissions law.

- (d) Unless it would conflict with an express provision of these bylaws or the Boards, Committees and Commissions law, Robert's Rules of Order shall be used as a guideline when conducting meetings of the ONEPC.

- 3-2. *Semi-Annual Meetings.* The ONEPC may hold semi-annual meetings with certain entities of the Nation for the purpose of providing emergency planning, training and education.

- (a) Semi-annual meetings of the ONEPC shall not qualify as a meeting for purposes of stipend eligibility.

- 3-3. *Emergency Meetings.* An emergency meeting of the ONEPC may be called when an issue arises requiring immediate action by the ONEPC that cannot wait until its next regularly scheduled meeting.

- (a) Emergency meetings of the ONEPC may be called by the Chairperson or Vice-Chairperson.

- (b) The Secretary shall provide notice to all ONEPC members in writing, as well as by telephone call, at least twenty-four (24) hours before the scheduled meeting and shall further provide notice in accordance with the

Draft 1 for OBC Consideration
2020 01 20

Nation's Open Records and Open Meetings law.

(1) Written notice provided via email communication must be sent to the official Oneida Nation email address provided to all members to conduct business electronically on behalf of the ONEPC.

(c) Emergency ONEPC meetings may be attended in person, by telephone, through video-conferencing or through other telecommunications so long as presence at the meeting occurs and is demonstrated in accordance with the Boards, Committees and Commissions law.

(d) Within seventy-two (72) hours after an emergency meeting, the ONEPC shall provide the Nation's Secretary with notice of the emergency meeting, the reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular meeting.

3-4. *Joint Meetings.* Joint meetings between the ONEPC and the Oneida Business Committee shall not be held.

3-5. *Quorum.* A quorum of the ONEPC shall consist of no less than a simple majority of the current membership, one of which shall be the Chairperson or Vice-Chairperson.

(a) In lieu of the Chairperson or Vice-Chairperson, the Secretary may complete a quorum for any meeting called pursuant to section 2-4(b) of these bylaws.

3-6. *Order of Business.* The regular meetings of the ONEPC shall follow the order of business as set out herein:

- (a) Call to Order
- (b) Adopt the Agenda
- (c) Approval of Minutes
- (d) Old Business
- (e) New Business
- (f) Emergency Management Director Report
- (g) Ad Hoc Committee Reports
- (h) Other Business
- (i) Open Session
- (j) Adjournment

3-7. *Voting.* The ONEPC shall make decisions by majority vote of its members present at any ONEPC meeting of an established quorum.

(a) The Chairperson, or Vice-Chairperson if presiding in lieu of the Chairperson or Secretary if presiding under section 2-4(b) of these bylaws, shall vote only in the event of a tie.

(b) E-polls shall not be permissible for voting purposes.

Article IV. Expectations**4-1. Behavior of Members.**

- (a) Attendance and participation are important contributors to the ONEPC's effectiveness. Members shall prepare for and attend all ONEPC meetings unless excused in accordance with these bylaws.
- (b) Members shall comply with these bylaws and any other governing laws and/or policies of the Nation.
- (c) Community representative members serve as the ONEPC's community liaison and are expected to conduct themselves in a professional manner when acting in said capacity.
- (d) *Enforcement.* Members found in violation of this section may be subject to one or more of the following as determined by majority vote of the members present at an ONEPC meeting of an established quorum:
 - (1) A request for the member's resignation;
 - (2) A recommendation to the Oneida Business Committee to terminate the member's appointment pursuant to the Boards, Committees and Commissions law;
 - (3) A notice of violation to the head of the member's representative area within the Nation; and/or
 - (4) Disciplinary action in accordance with any law of the Nation governing sanctions and penalties for appointed officials.
- (e) Prior to acting under subsection (d) of this section, the Chairperson or Officer designated by the Chairperson shall send a certified letter to the member, inquiring into his or her explanation/intentions regarding the issue.
 - (1) If the member fails to respond to the Chairperson or Officer designee within ten (10) business days of receiving the letter, he or she will be subject to possible action under subsection (d) of this section.
 - (A) The certified letter from the Chairperson or Officer designee shall include the language set forth in subsection (e)(1) of this section.
 - (2) If the member provides a timely response to the Chairperson or Officer designee, the ONEPC will decide by majority vote of the members present at a meeting of an established quorum whether, based on the response, the member should be subject to enforcement under subsection (d) of this section or a lesser form of corrective action.

4-2. *Prohibition of Violence.* Members of the ONEPC are prohibited from committing any intentionally violent act that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person or damage to personal property.

4-3. *Drug and Alcohol Use.* All members of the ONEPC are prohibited from using alcohol or prohibited drugs while acting in the official capacity as an ONEPC member.

Draft 1 for OBC Consideration
2020 01 20

4-4. *Social Media.* All members of the ONEPC shall be required to follow the Oneida Nation's Social Media Policy and their oath of office when acting in their official capacity as an ONEPC member.

4-5. *Conflict of Interest.* Members of the ONEPC shall abide by all laws of the Nation governing conflicts of interest.

- (a) Community representative members shall be required to sign a confidentiality agreement before serving in their official capacity on the ONEPC.

Article V. Stipends and Compensation

5-1. *Stipends.* Dependent upon available budgeted funds, stipend eligibility shall be as set forth in and subject to these bylaws; the Boards, Committees and Commissions law; resolution BC-08-12-20-C titled, Amended Boards, Committees and Commissions Law Stipends, as may be further amended from time-to-time hereafter; and as follows:

- (a) *Community Representatives.* The community representative member(s) of the ONEPC shall be eligible to receive:
 - (1) No more than twelve (12) meeting stipends per fiscal year, provided that:
 - (A) A quorum was established;
 - (B) The meeting of the established quorum lasted for a minimum of one (1) hour; and
 - (C) The community representative member collecting the stipend was present for the entire meeting as defined and demonstrated in accordance with the Boards, Committees and Commissions law.
 - (2) A stipend for attending a Judiciary hearing so long as the community representative member's attendance at the hearing was required by official subpoena.
 - (3) A stipend for attending a conference or training, provided that:
 - (A) The amount of stipend the member is eligible to receive for attending a conference or training shall be dependent on whether the member attended up to four (4) hours of the conference/training or more than four (4) hours of the conference/training; and
 - (B) The community representative member's attendance at the conference or training was required by law, bylaws or resolution.
- (b) *Area Representatives.* ONEPC members appointed under section 1-5(a)(1)-(6) of these bylaws shall not collect stipends despite their eligibility except as follows:

Draft 1 for OBC Consideration
2020 01 20

(1) ONEPC members appointed under section 1-5(a)(1)-(6) of these bylaws shall be eligible to receive stipends for attending a conference or training, provided that:

(A) The amount of stipend the member is eligible to receive for attending a conference or training shall be dependent on whether the member attended up to four (4) hours or more than four (4) hours of the conference/training; and

(B) The member's attendance at the conference or training was required by law, bylaws or resolution.

5-2. *Compensation.* Besides travel, per diem and business expense reimbursement as authorized under the Boards, Committees and Commissions law, ONEPC members shall not be eligible for any other type of compensation for duties/activities they perform on behalf of the ONEPC.

(a) Proof of attendance at the training or conference, along with all necessary receipts and/or reports in support of a member's allowable expenses, must be provided to the Director of the Emergency Management Department before members may qualify for compensation hereunder.

Article VI. Records and Reporting

6-1. *Agenda Items.* ONEPC agenda items shall follow the format identified in section 3-6 of these bylaws as the *Order of Business*.

6-2. *Minutes.* Minutes shall be typed and in a format that is consistent with the format designed by the Business Committee Support Office to generate the most informative record of the ONEPC meetings.

(a) Actions taken by the ONEPC are valid once the corresponding minutes are approved by the ONEPC; provided, the minutes are recorded, transcribed, approved and filed/maintained in accordance with these bylaws.

(b) All minutes shall be submitted to the Business Committee Support Office within thirty (30) days of their approval by the ONEPC.

6-3. *Attachments.* Handouts, reports, memoranda and the like shall be attached to their corresponding minutes and agenda and maintained in accordance with the Nation's Open Records and Open Meetings law.

6-4. *Oneida Business Committee Liaison.* The ONEPC shall regularly communicate with the member of the Oneida Business Committee who is its designated liaison.

(a) The frequency and method of communication shall be as agreed upon by the ONEPC and the liaison, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or the Oneida General Tribal Council.

(b) The purpose of the liaison relationship is to uphold the ability of the liaison

to act as support to the ONEPC.

- 6-5. *Audio Recordings.* All meetings of the ONEPC shall be audio recorded by the Secretary or Secretary's designee using a device provided or approved by the Business Committee Support Office.
- (a) Audio recordings of ONEPC meetings shall be maintained in accordance with the Nation's Open Records and Open Meetings law.
 - (b) *Exception.* Audio recordings of executive session portions of an ONEPC meeting shall not be required.

Article VII. Amendments

- 7-1. *Amendments to Bylaws.* Amendments may be made to these bylaws at a regular ONEPC meeting of an established quorum; provided, written notice of the proposed amendments was made at a prior regular meeting and in accordance with these bylaws, as well as any governing provisions of the Nation's Open Records and Open Meetings law.
- (a) A two-thirds vote of the members present at an ONEPC meeting of an established quorum is required to amend these bylaws and amendments are effective upon adoption by the ONEPC and approval by the Oneida Business Committee, as well as the Oneida General Tribal Council if required.
 - (b) Any amendments to these bylaws shall conform to the requirements of the Boards, Committees and Commissions law, as well as any other policy of the Nation.
 - (c) The ONEPC shall conduct a review of these bylaws no less than on an annual basis.

Article VIII. Dissolution

- 8-1. *Dissolution of the ONEPC.* The ONEPC shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.
- (a) In the event of dissolution of the ONEPC, the Chairperson and Secretary shall be responsible for closing out all open business of the ONEPC and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal.
 - (1) Unless otherwise granted an extension per the Boards, Committees and Commission law, all open business shall be closed out and all materials and records forwarded to the Business Committee Support Office within two (2) weeks of dissolution.

Draft 1 for OBC Consideration

2020 01 20

474 These bylaws, as amended and revised, are hereby attested to as adopted by the Oneida Nation
475 Emergency Planning Committee at a duly called meeting by the Chairperson's signature on this
476 _____ day of _____, 202_.

477 _____
478 Chairperson
479 Emergency Planning Committee

480
481 and approved by the Oneida Business Committee at a duly called meeting held on this _____ day
482 of _____, 202_ by the Secretary of the Oneida Business Committee's signature.

483
484 _____
485 Lisa Liggins, Secretary
486 Oneida Business Committee



Oneida Nation Emergency Planning Committee Bylaws

Amendments

Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Amendments	<ul style="list-style-type: none"> ○ To comply with the September, 2018 amendments to the Boards, Committees and Commissions law (“Law”), which provide that, within a reasonable time after the Law’s adoption, all existing boards, committees and commissions of the Nation must present bylaws for adoption that comply with the format and contain the minimal amount of information prescribed in the Law, including: <ul style="list-style-type: none"> • The process for filling vacancies on the Oneida Nation Emergency Planning Committee (“ONEPC”); • The qualifications necessary for membership on the ONEPC; • The Officer positions on the ONEPC, as well as the process for selecting those Officers and the duties assigned to each specific Officer position; • The behavioral expectations of those serving on the ONEPC; • The process for calling, noticing, conducting and recording meetings of the ONEPC; • The process for terminating the appointment of ONEPC members; • The requisite training/conferences for members of the ONEPC; • Stipend eligibility; and • The process for further amendments to the ONEPC’s bylaws. [1 O.C. 105.10-1(a)]. ○ To comply with the directive from the Oneida Business Committee (“OBC”) to include certain across-the-board amendments to all bylaws of the boards, committees and commissions that have not been expressly granted an exception therefrom.
Purpose	The ONEPC was established pursuant to the Nation’s Emergency Management and Homeland Security law, which was adopted by the OBC through resolution BC-07-15-98-A, and subsequently amended by resolutions BC-12-20-06-G and BC-05-13-09-F.
Related Legislation	Oneida Nation Constitution, Emergency Management and Homeland Security law, Boards, Committees and Commissions law, Social Media Policy, Travel and Expense Policy, Conflict of Interest law, Open Records and Open Meetings law; Vehicle Driver Certification and Fleet Management law; Computer Resources Ordinance.
Enforcement/Due Process	ONEPC members are appointed by and serve at the discretion of the OBC. Upon the recommendation of an OBC member or the ONEPC, an ONEPC member may have his or her appointment terminated by the OBC by a two-thirds majority vote. The OBC’s decision to terminate a member’s appointment is final and not subject to appeal. [1 O.C. 105.7-4].
Public Meeting	Public meetings are not required for bylaws.
Fiscal Impact	A fiscal impact statement is not required for bylaws.

SECTION 2. BACKGROUND

- A. Bylaws provide a framework for the operation and management of a board, committee or commission of the Nation; the government of its members; and the regulation of its affairs. [1 O.C. 105.3-1(d)].
- B. The ONEPC was established pursuant to the Nation's Emergency Management and Homeland Security law, through adoption of resolutions BC-07-15-98-A, BC-12-20-06-G and BC-05-13-09-F to serve as the Nation's emergency planning and oversight committee.
- C. On September 26, 2018, the OBC adopted amendments to the Boards, Committees and Commissions law through resolution BC-09-26-18-C. Per section 105.10-1(a), within a reasonable time after the Law's adoption, all existing boards, committees and commissions of the Nation were required to amend their bylaws to comply with the format requirements and to add the minimal amount of information prescribed within the Law.
- D. Per the request of the Director of the Nation's Emergency Management Department, this item was initially added to the Active Files List on February 5, 2020, with Jennifer Webster as the sponsor, for purposes of amending ONEPC's bylaws to comply with the requirements of the Law. At the time the request was made, the ONEPC was inactive and attempting to re-establish itself in accordance with governing law. Shortly thereafter, the COVID-19 pandemic hit, which caused a delay in the processing of this request.
- E. This item was carried over from the previous 2020-2023 term, and, on October 7, 2020, it was added back on to the Active Files List, with Jennifer Webster as the sponsor, to amend the ONEPC bylaws per the requirements of the Law, which had since been further amended in August of 2020.

SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW.

- A. The proposed bylaws comply with the requirements of the Boards, Committees and Commissions law [1 O.C. 105.10].
- B. The proposed bylaws comply with resolution BC-08-12-20-C titled "Amended Boards, Committees and Commissions Law Stipends" which details the types, specific dollar amounts and eligibility requirements of stipends under the Boards, Committees and Commissions law [1 O.C. 105.13].
- C. The proposed bylaws comply with resolution BC-03-27-19-D titled, "Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact."

SECTION 4. AMENDMENTS

This section details the changes to the bylaws from the previously adopted bylaws.

A. Article I. Authority.

- **Section 1-5(a) – Number of Members.** The Emergency Management and Homeland Security law, which established the ONEPC, provides that the membership shall "consist of representatives from entities and a community representative as identified in the ONEPC bylaws as approved by the Oneida Business Committee." [3 O.C. 302.5-1]. The Boards, Committees and Commissions law prohibits the following individuals from serving on a board, committee or commissions of the Nation due to the potential for a real or perceived conflict of interest:
 - (1) Political appointees;
 - (2) An employee of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications; and
 - (3) An employee who serves as a direct report to the Oneida Business Committee or General Manager. [1 O.C. 105.15-3].

Under its current bylaws, the ONEPC is to be comprised of between nine (9) and ten (10) members, plus eight (8) alternate members, with several of those members being from the Intergovernmental Affairs Division and one member being employed as the Business Committee Support Office Area Manager. [ONEPC Bylaws 1-5(a)]. Section 1-5(a) was changed to exclude representatives from the Intergovernmental Affairs Division and Business Committee Support Office because these

individuals are deemed ineligible to serve on a board, committee or commission by section 105.15-3 of the Boards, Committees and Commissions law due to the actual or perceived conflict of interest that could arise from the dual representation. *[Proposed Bylaws 1-5(a)]*.

- **Impact:** By eliminating these area representatives, the number of ONEPC members has decreased from between nine (9) and ten (10) members (plus eight (8) alternate members) to between seven (7) and eight (8) members (plus six (6) alternate members) to be made up of representatives from the following areas:

- (1) One (1) member and one (1) alternate member shall be employed within the Oneida Police Department;
- (2) One (1) member and one (1) alternate member shall be employed within the Nation's Division of Public Works;
- (3) One (1) member and one (1) alternate member shall be employed within the Nation's Comprehensive Health Division;
- (4) One (1) member and one (1) alternate member shall be employed within the Nation's Community Economic and Development Division;
- (5) One (1) member and one (1) alternate member shall be employed within the Nation's Environmental, Health, Safety, Land and Agriculture Division;
- (6) One (1) member and one (1) alternate member shall be employed within the Nation's Gaming Division; and
- (7) At least one (1) but no more than two (2) members shall be representatives from the Oneida Community. *[Proposed Bylaws 1-5(a)]*.

- **Section 1-5(b) & (c) – Appointment and Vacancies.** Members are appointed to the ONEPC and vacancies on the ONEPC are filled through the appointment process. *[ONEPC Bylaws 1-5(b)-(c)]*. Subsections (b) and (c) of section 1-5 were changed to make the process used for such appointments consistent with the process mandated by the Boards, Committees and Commissions law. *[Proposed Bylaws 1-5(b) and 1 O.C. 105.7-1]*.

- **Impact:** The pool of candidates for appointment to the ONEPC will no longer be limited to those individuals who are recommended by either the ONEPC or the head of the employment area being represented. *[ONEPC Bylaws 5-1(b)-(c)]*. Rather, the pool of candidates will be made up of individuals who applied for appointment in response to the notice of vacancy posted by the Business Committee Support Office in accordance with the Boards, Committees and Commissions law. *[1 O.C. 105.6-4]*. Upon expiration of the application deadline, the Business Committee Support Office will compile the applications and forward them, along with a summary of each applicant's qualifications to hold office, to the Oneida Business Committee, as well as the Chairperson of the ONEPC. *[1 O.C. 105.7-1]*.

- The ONEPC will still be able to participate in the application process; however, it will be limited to the following in order to stay within the confines of the Boards, Committees and Commissions law: "The ONEPC Chairperson shall review all application materials and submit a recommendation for appointment to the Oneida Business Committee in accordance with the Boards, Committees and Commissions law." *[Proposed Bylaws 1-5(c)(2)]*. The recommendation from the ONEPC Chairperson must be determined by a majority vote of the members present at the ONEPC meeting of an established quorum wherein the issue was decided. *[Proposed Bylaws 1-5(c)(2)(A)]*.

- **Section 1-5(d) – Qualifications of Members.** Two more requirements were added under this subsection to qualify for membership on the ONEPC.

- The first additional requirement is that the candidate be "eligible to serve under the conflicts of interest provision set forth in the Boards, Committees and Commissions law." *[Proposed Bylaws 1-5(d)(1)(D)]*.

- As indicated above, section 105.15-3 of the Boards, Committees and Commissions law prohibits individuals employed within certain areas of the Nation from serving on a board, committee or commission due to the potential for a real or perceived conflict of interest. *[1*

O.C. 105.15-3]. By adding this to the qualification section of the ONEPC bylaws, it helps to ensure that persons from these prohibited areas are not considered for appointment to the ONEPC.

- The second additional requirement is that candidates for appointment to be a representative member of one of the employment areas, such as the Oneida Police Department, submit a letter of recommendation from the head of that employment area. [Proposed Bylaws 1-5(d)(2)(B)].

- **Impact:** This gives the ONEPC some control over the pool of candidates considered for appointment to the ONEPC as member representatives of one of the employment areas at issue, but does so within the confines of the Boards, Committees and Commissions law. Rather than allowing the ONEPC and area directors to create the pool of candidates through recommendation, which would conflict with the Boards, Committees and Commissions law, this would filter out applicants who respond to the posting of an ONEPC vacancy from being considered for appointment unless, along with the other qualifications, they submit a letter of recommendation from the head of the employment area they were applying to represent.

- **Section 1-6 – Termination.** This section of the bylaws lists certain conduct that would give the ONEPC cause to make a recommendation to the Oneida Business Committee for the termination of an ONEPC member’s appointment. [ONEPC Bylaws 1-6]. Although it is the Oneida Business Committee that ultimately decides whether to terminate a member’s appointment, the Boards, Committees and Commissions law requires that entities identify in their bylaws which conduct they would consider grounds for such termination. [1 O.C. 105.7-4 & 105.10-3(a)(6)]. This section has been changed as follows:

- A provision was added to require that decisions on whether to recommend a member’s termination for conduct listed in this section be made by a majority vote of the members present at an ONEPC of an established quorum. [Proposed Bylaws 1-6].

- The accumulation of three (3) or more unexcused absences from a scheduled ONEPC meeting within a one (1) year period is listed as conduct that would give the ONEPC cause to recommend a member’s termination of appointment to the Oneida Business Committee. The following provision was added to this section to clarify what constitutes an unexcused absence:

- “An ONEPC member shall be deemed unexcused if he or she fails to provide written notice of the absence to an ONEPC Officer at least thirty (30) minutes before the missed meeting.” [Proposed Bylaws 1-6(a)(1)(A)].

- **Section 1-7 – Trainings and Conferences.** This section of the bylaws lists the trainings and/or conferences that are mandatory for ONEPC members to attend. [ONEPC Bylaws 1-7]. Under the Boards, Committees and Commissions law, members of an entity are not eligible to receive stipends for attending a conference or training unless attendance was mandated by law, bylaws or resolution. [1 O.C. 105.13-8]. By identifying the trainings/conferences listed herein as mandatory, this prerequisite to stipend eligibility is satisfied. Per directive of the Oneida Business Committee, this section was changed to include the following limitation:

- “Regardless of the number of trainings/conferences that he or she is required to attend, no ONEPC member shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.” [Proposed Bylaws 1-7(c)].

- **Impact:** By adding a limitation as to the number of mandatory trainings/conferences a member may receive a stipend for in a one-year period, the ONEPC is not being limited in the amount of training/conferences it can require its members to attend. Rather, it is limiting the number of trainings/conferences that would be considered stipend eligible. This provides an avenue for protecting the Nation from the fiscal burden that could ensue if stipend eligibility restrictions were not put in place, while preserving the ONEPC’s autonomy in deciding how many trainings/conferences it feels are necessary for members to attend.

B. Article II. Officers.

- **Section 2-2 – Responsibilities of the Chairperson.** The following items were added to the Chairperson's assigned responsibilities under this section of the ONEPC bylaws:
 - (1) With assistance from the ONEPC Secretary, to notify all ONEPC members of meetings in accordance with the Boards, Committees and Commissions law, as well as the Nation's Open Records and Open Meetings law [*Proposed Bylaws 2-2(a)*];
 - (2) To submit, or have submitted through a designee, annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, consistent with the Boards, Committees and Commissions law [*Proposed Bylaws 2-2(c)*]; and
 - (3) To attend, or designate an ONEPC member to attend, the Oneida Business Committee meeting in which the ONEPC's quarterly report appears on the agenda [*Proposed Bylaws 2-2(d)*].
- Impact:
 - The Boards, Committees and Commissions law requires that entities identify within their bylaws how they plan on providing notice of meeting agendas, documents and minutes. [*1 O.C. 105.10-3(c)*]. The Open Records and Open Meetings law provides the minimum requirements that governmental bodies, including boards, committees and commissions, must meet when notifying the public of their meetings. [*1 O.C. 107.13-1(a)*]. By assigning the responsibility of noticing meetings to the ONEPC Chairperson and requiring that said notice be provided in accordance with governing law, it creates an extra layer of oversight.
 - The Boards, Committees and Commissions law further requires that entities provide certain reports to the Oneida General Tribal Council, as well as the Oneida Business Committee, in the manner prescribed therein and that at least one (1) member of the entity attend the Oneida Business Committee meeting where their quarterly report appears on the agenda. [*1 O.C. 105.12-3*]. By assigning the ONEPC Chairperson with the responsibility to ensure, whether by carrying out the duty herself or delegating it to another, that reports are being submitted and meetings attended in compliance with the Law, it creates an extra layer of oversight.
- **Section 2-4 – Responsibilities of the Secretary.** The following item was added to the Secretary's assigned responsibilities under this section of the ONEPC bylaws:
 - If both the Chairperson and Vice-Chairperson seats become vacant before the end of their terms, a provision was added that allows the Secretary to call ONEPC meetings to fill the vacancies and to preside over those meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, would preside. [*Proposed Bylaws 2-4(b)*].
- **Section 2-6 – Selection of Officers.** The following items were added to this section of the ONEPC bylaws.
 - A provision was added that allows for ONEPC members to be dismissed from their Officer positions by a majority vote of the members present at an ONEPC meeting of an established quorum. [*Proposed Bylaws 2-6(a)*].
 - Impact: Under the Boards, Committees and Commissions law, the Oneida Business Committee has the sole discretion to decide whether to terminate the appointment of a board, committee or commission member. [*1 O.C. 105.7-4*]. This provision applies only to Officer positions on the ONEPC, meaning that an ONEPC member can be stripped of his or her Officer position by a majority vote of the ONEPC, but would remain an ONEPC member unless terminated by the Oneida Business Committee under a separate process.
 - A second provision was added to clarify that Officers of the ONEPC shall not be allowed to hold more than one (1) Officer position per Officer term. [*Proposed Bylaws 2-6(c)*].
- **Section 2-7 – Purchases and Travel.** This section of the ONEPC bylaws must identify how the ONEPC intends to approve purchases and/or travel on behalf of the ONEPC. [*1 O.C. 105.10-3(b)*]

(6)]. It was updated to comply with the requirements of the Boards, Committees and Commissions law as follows:

- The ONEPC must follow the Nation's policies and procedures regarding purchasing and sign-off authority [*Proposed Bylaws 2-7*];
- The levels of budgetary sign-off authority for the ONEPC must be consistent with the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors [*Proposed Bylaws 2-7(a)*];
- All ONEPC Officers will have sign-off authority and two (2) Officers will be required to sign-off on all budgetary requests [*Proposed Bylaws 2-7(a)(1)*]; and
 - Upon formal approval of a purchase by the ONEPC, the Business Committee Support Office will have official budgetary sign-off authority for the ONEPC. [*Proposed Bylaws 2-7(a)(1)(A)*].
- The ONEPC must approve a member's request to travel on behalf of the ONEPC by majority vote of the members present at a regular or emergency ONEPC meeting of an established quorum [*Proposed Bylaws 2-7(b)*].

C. Article III. Meetings.

- **Section 3-1 – Regular Meetings.** This section of the ONEPC bylaws must identify, at a minimum, when and where regular meetings of the ONEPC will be held and how the ONEPC intends to provide notice of the meeting agenda, documents and minutes. [*1 O.C. 105.10-3(c)*].
 - Under the current bylaws, the ONEPC is required to hold a meeting every month during regular business hours. [*ONEPC Bylaws 3-1(a)*]. Because this section only vaguely addresses when and where regular meetings of the ONEPC must be held, the following provisions were added to better comply with the Boards, Committees and Commissions law:
 - That, the date, time and location of the meeting shall be set at the first ONEPC meeting of an established quorum by majority vote of the members present [*Proposed Bylaws 3-1(a)*]; and
 - That, the ONEPC meeting date, time and/or location may change from time-to-time as determined by a majority vote of the members present at an ONEPC meeting of an established quorum so long as notice is provided in accordance with the Nation's Open Records and Open Meetings law prior to implementation of a new date, time and/or location [*Proposed Bylaws 3-1(a)(1)*];
 - **Impact:** The above-referenced revisions not only ensure compliance with the minimal requirements for this section under the Boards, Committees and Commissions law, but offer the ONEPC flexibility by authorizing the established date, time and/or location of its regular meetings to change as deemed necessary by a majority vote of the ONEPC; provided, the ONEPC affords public notice of such change or changes in advance of implementation.
 - That, in addition to requirements already set forth in its current bylaws, notice of ONEPC meetings is further provided in accordance with the Nation's Open Records and Open Meetings law [*Proposed Bylaws 3-1(b)*]; and
 - That, ONEPC meetings may be attended in person, by telephone, through video-conferencing or through other telecommunications; provided, the presence of any member attending a meeting virtually is demonstrated in accordance with the Boards, Committees and Commissions law [*Proposed Bylaws 3-1(c)*].
 - **Impact:** With the onset of the COVID-19 pandemic, the Nation was forced to adjust many of its customary practices, including the manner in which it holds meetings by hosting them virtually or with very limited access to the public. This provision allows similar flexibility to the ONEPC to allow for the same so long as the following occurs in compliance with the Boards, Committees and Commissions law:

- (1) The ONEPC demonstrates the presence of its members during a meeting by taking roll call on the record at both the beginning and end of the meeting; and
- (2) If an ONEPC member experiences a technological issue during the meeting and it disrupts the member's presence, he or she notifies the ONEPC of the technological issue as soon as possible. [1 O.C. 105.13-3(c)-(d)].

- **Section 3-3 – Emergency Meetings.** Under the Boards, Committees and Commissions law, this section of the ONEPC bylaws must, at a minimum, identify what constitutes an emergency; how emergency meetings are to be called; and how notice of an emergency meeting must be provided. [1 O.C. 105.10-3]. In order to meet the minimum requirements for compliance with the Law, the following was added to this section:

- That, an emergency meeting of the ONEPC may be called when an issue arises requiring immediate action by the ONEPC that cannot wait until its next regularly scheduled meeting [Proposed Bylaws 3-3]; and
- That, the ONEPC Secretary must provide notice of an emergency meeting to all ONEPC members in writing, as well as by telephone call, at least twenty-four (24) hours before the scheduled meeting and must further provide notice in accordance with the Nation's Open Records and Open Meetings law [Proposed Bylaws 3-3(b)].

This section was further revised to add a point of clarification that email communications must be sent to the official Oneida Nation email address provided to all members to conduct business electronically on behalf of the ONEPC [Proposed Bylaws 3-3(b)(1)]; and that, similar to regular meetings of the ONEPC, emergency meetings may be attended in person, by telephone, through videoconferencing or through other telecommunications so long as a member's virtual presence is demonstrated in accordance with the Boards, Committees and Commissions law [Proposed Bylaws 3-3(c)]. [1 O.C. 105.13-3(c)-(d)].

- **Section 3-7 – Voting.** Under its current bylaws, this section contains a provision allowing “a proxy representative . . . to vote in place of his or her respective Division/Department Representative or in place of the OBC Support Office Area Manager”. [ONEPC Bylaws 3-5(a)]. There is nothing in the Boards, Committees and Commissions law or other governing laws of the Nation that expressly authorizes the use of proxy voting, nor does the Nation have a past practice of using proxy voting. Thus, the provision was removed from this section of the ONEPC bylaws. [Proposed Bylaws 3-7].

D. Article IV. Expectations.

- **Section 4-1 – Behavior of Members.** Under the Boards, Committees and Commissions law, this section of the ONEPC bylaws must, at a minimum, identify the behavioral expectations and requirements of an ONEPC member and how the ONEPC will enforce such expectations/requirements. [1 O.C. 105.10-3(d)]. Under its current bylaws, the ONEPC has a list of behavioral expectations that its members must follow, as well as mechanisms to enforce such behavior; however, they are located throughout various sections of Article I of the bylaws. To comply with the Boards, Committees and Commissions law's formatting requirements, the list and enforcement mechanisms were compiled and placed under this section of the ONEPC bylaws. [Proposed Bylaws 4-1].
- **Section 4-2 – Prohibition of Violence.** This section prohibits members of the ONEPC from committing any intentionally violent act that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person or damage to personal property. [Proposed Bylaws 4-2]. It was added to comply with the minimum requirements of the Boards, Committees and Commissions law. [1 O.C. 105.10-3(d)(2)].

E. Article V. Stipends and Compensation.

- **Section 5-1. Stipends.** This section was updated to comply with the Boards, Committees and Commissions law and to provide clarity with respect to its application to certain members of the ONEPC.

- *Community Representative Members.* Community representative members of the ONEPC are eligible to receive:
 - Up to twelve (12) meeting stipends per fiscal year; provided:
 - A meeting quorum is established [*Proposed Bylaws 5-1(a)(1)(A)*];
 - The meeting of the established quorum lasts for a minimum of one (1) hour [*Proposed Bylaws 5-1(a)(1)(B)*]; and
 - The community representative member collecting the stipend is present for the entire meeting as defined and demonstrated within the Boards, Committees and Commissions law [*Proposed Bylaws 5-1(a)(1)(C)*].
 - A stipend for attending a Judiciary hearing where that member's attendance was required by official subpoena [*Proposed Bylaws 5-1(a)(2)*];
 - A stipend for attending a conference or training; provided:
 - The stipend amount shall be dependent on whether the member attended up to four (4) hours of the conference/training or more than four (4) hours of the conference/training [*Proposed Bylaws 5-1(a)(3)(A)*]; and
 - The member's attendance at the conference or training was required by law, bylaws or resolution [*Proposed Bylaws 5-1(a)(3)(B)*].
- *Area Representative Members.* Area representative members of the ONEPC are eligible to receive:
 - A stipend for attending a conference or training; provided:
 - The stipend amount shall be dependent on whether the member attended up to four (4) hours of the conference/training or more than four (4) hours of the conference/training [*Proposed Bylaws 5-1(b)(1)(A)*]; and
 - The member's attendance at the conference or training was required by law, bylaws or resolution [*Proposed Bylaws 5-1(b)(1)(B)*].

F. Article VI. Records and Reporting.

- **Section 6-2 – Minutes.** Under the Boards, Committees and Commissions law, this section must, at a minimum, identify the format for meeting minutes and a reasonable timeframe in which minutes are to be submitted to the Business Committee Support Office. [*1 O.C. 105.10-3(f)(2)*]. In order to get this section of the ONEPC bylaws in compliance with the Law, the following provisions were added:
 - That, the format used for meeting minutes of the ONEPC shall be consistent with the format designed by the Business Committee Support Office to generate the most informative record of the ONEPC meetings [*Proposed Bylaws 6-2*]; and
 - That, ONEPC meeting minutes must be submitted to the Business Committee Support Office within thirty (30) days of their approval by the ONEPC [*Proposed Bylaws 6-2(b)*].
- **Section 6-4 – Oneida Business Committee Liaison.** This section of the ONEPC bylaws was changed to remove any indication that it governs the conduct of the Oneida Business Committee member or members appointed to be the ONEPC's liaison. The ONEPC, whether through its bylaws or otherwise, is unable to control or direct the liaison appointment process or how the liaison performs throughout his or her term. The updates to this section are intended to provide clarity in this regard.

G. Article VII. Amendments.

- **Section 7-1 – Amendments to Bylaws.** In order to comply with the Boards, Committees and Commissions law and Oneida Business Committee directive, respectively, the following provisions were added to this section of the ONEPC bylaws:
 - That, any amendments to the ONEPC bylaws must conform to the requirements of the Boards, Committees and Commissions law, as well as any other policy of the Nation [*Proposed Bylaws 7-1(b)*]; and

- That, the ONEPC shall conduct a review of its bylaws no less than on an annual basis
[*Proposed Bylaws 7-1(c)*].

SECTION 5. LEGISLATION RELATED TO BOARDS, COMMITTEES AND COMMISSIONS

There are no conflicts between the proposed bylaws amendments and the Oneida Code of Laws. Below is a summary of laws referenced in and related to the proposed amendments to the Oneida Nation Emergency Planning Committee's Bylaws.

A. **Oneida Nation Constitution.** The Constitution of the Oneida Nation contains a provision that allows for the creation of committees for the proper conduct of tribal business of the Nation. [*Oneida Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between the proposed bylaws amendments and the Oneida Nation Constitution.

B. **Emergency Management and Homeland Security [3 O.C. Chapter 302].** This law provides for the development and execution of plans for the protection of residents, property and the environment in an emergency or disaster. [*3 O.C. 302.1-1*]. The law establishes the ONEPC and requires as follows with respect to this entity:

- (1) That, the ONEPC consist of representatives from entities and a community representative as identified in the ONEPC bylaws as approved by the Oneida Business Committee;
- (2) That, the ONEPC meet as necessary to assist the Nation's Emergency Management/Homeland Security Agency Director ("Director") with the drafting and maintaining of the Nation's Emergency Operations Plan; and
- (3) That, at his or her request, the ONEPC assist the Director in the implementation of the provisions of the Emergency Management and Homeland Security law, as well as any plan issued in accordance therewith. [*3 O.C. 302.5-1 through 302.5-3*].

The proposed bylaws indicate that the ONEPC was established in compliance with, what is now known as, the Emergency Management and Homeland Security law. [*Proposed Bylaws 1-2*]. The ONEPC is to be composed of members from various entities within the Nation, as well as at least one (1), but not more than two (2), members from the community. [*Proposed Bylaws 1-5*]. Among other duties, members of the ONEPC are responsible for assisting the Director with the drafting/maintaining of the Nation's Emergency Operations Plan and, if requested, the implementation of the Emergency Management and Homeland Security law and/or plan issued thereunder. [*Proposed Bylaws 1-3*]. The proposed bylaws comply and are not in conflict with the Nation's Emergency Management and Homeland Security law.

C. **Boards, Committees and Commissions [1 O.C. Chapter 105].** This Law governs the establishment, composition and operation of the Nation's elected and appointed boards, committees and commissions. It establishes the procedures for appointing/electing people to a board, committee or commission; the mandate for creating bylaws and the minimal information to be included therein; the recording and record keeping requirements relating to board, committee and commission meetings, including the manner in which information is reported to the Oneida Business Committee and the Oneida General Tribal Council; the eligibility requirements for stipends, compensation and reimbursement; and other processes relating to the operation of the Nation's boards, committees and commissions.

With respect to the creation of bylaws, the Law sets the format requirements and the minimal amount of information that needs to be contained within an entity's bylaws. It further provides that all of the Nation's boards, committees and commissions, governed by the Law, are required to present bylaws to the Oneida Business Committee for adoption that comply with the Law and that said bylaws be presented within a reasonable amount of time following the Law's adoption. The bylaws contain the requisite formatting, as well as information, and do not conflict with any other provision of the Law.

D. **Social Media Policy [2 O.C. Chapter 218].** This law regulates social media accounts, including how content is managed and who has the authority to post on social media on behalf of the Nation. ONEPC members are required to follow the Nation's Social Media Policy, as well as their Oath of Office, when acting in their official capacity as an ONEPC member. *[Proposed Bylaws 4-4]*. There are no conflicts between the proposed bylaws and the Social Media Policy.

E. **Travel and Expense Policy [1 O.C. Chapter 219].** This law establishes policies that govern the reimbursement of travel and related expenses incurred during the conduct of company business. *[2 O.C. 219.1]*. Per section 219.4-2 of the law, "any travel for boards, committees and commissions must be authorized by sign off authority as indicated within the entity's approved bylaws." Consistent with the Travel and Expense Policy, the Boards, Committees and Commissions law expressly requires that boards, committees and commissions include within their bylaws a section that identifies how the entity will approve purchases or travel on its behalf, the section of which must provide, at a minimum, that:

- (1) The entity follows the Nation's policies and procedures regarding purchasing and sign-off authority;
- (2) Upon formal approval of a purchase by an entity, the Business Committee Support Office shall have official budgetary sign-off authority for the entity; and
- (3) An entity shall approve a member's request to travel on behalf of the entity by majority vote at a regular or emergency meeting of the entity. *[1 O.C. 105.10-3(b)(6)]*.

With respect to purchases and travel, the ONEPC's proposed bylaws provide that the ONEPC "shall follow the Nation's policies and procedures regarding purchasing and sign-off authority." *[Proposed Bylaws 2-7]*. In addition, the bylaws give all ONEPC Officers sign-off authority and require that two (2) Officers sign-off on all budgetary requests before submitting to the Business Committee Support Office for formal approval. *[Proposed Bylaws 2-7(a)(1)(A)]*. Last, the ONEPC is required to approve a member's request to travel on behalf of the ONEPC by a majority vote of the members present at a regular or emergency ONEPC meeting of an established quorum. *[Proposed Bylaws 2-7(b)]*. The proposed bylaws comply and are not in conflict with the Nation's Travel and Expense Policy.

F. **Open Records and Open Meetings [1 O.C. Chapter 107].** This law sets the requirements for how meetings of the Nation's governmental bodies shall be conducted and how materials from that meeting maintained, as well as made available to the public. *[1 O.C. 107.1 & 107.12]*. "Governmental bodies" encompasses most of the Nation's boards, committees and commissions, the ONEPC included. *[1 O.C. 107.31(d)]*. Absent an exception, meetings of a governmental body are to be open to the public and the materials therefrom available for public inspection so long as they constitute a "record" as defined within the law. *[1 O.C. 107.15 & 107.17]*. In addition, the law provides the minimum requirements for how notice of a governmental meeting must be provided, as well as accessible, to the public. *[1 O.C. 107.15-1]*. The proposed bylaws assign the responsibility for noticing meetings of the ONEPC and maintaining all materials therefrom to the ONEPC Secretary. *[Proposed Bylaws 2-4 & 3-1]*. Written notice of meeting agendas, documents and minutes is to be provided to all ONEPC members at least seventy-two (72) hours before each meeting and to the public in accordance with the Nation's Open Records and Open Meetings law. *[Proposed Bylaws 3-1(b)]*. In addition, the proposed bylaws dictate that materials from an ONEPC meeting are to be included with the meeting agenda/meeting minutes for purposes of maintaining in accordance with the Nation's Open Records and Open Meetings law. *[Proposed Bylaws 6-3]*. And, ONEPC meetings are to be open to the public and audio recorded except during executive sessions. *[Proposed Bylaws 6-5]*. The proposed bylaws comply and are not in conflict with the Nation's Open Records and Open Meetings law.

G. **Computer Resources Ordinance [2 O.C. Chapter 215].** This law regulates the use of computer resources that are owned and operated by the Nation and, among other individuals, applies to members

of a board, committee or commission. [2 O.C. 215.1-1 & 215.3-1(f)]. The proposed bylaws comply and are not in conflict with the Nation's Computer Resources Ordinance.

- H. **Vehicle Driver Certification and Fleet Management [2 O.C. Chapter 210].** This law establishes standards for individuals who drive a fleet vehicle or personal vehicle on official business and regulates the use of all vehicles owned and leased by the Nation. [2 O.C. 210.1-1]. The ONEPC is considered an entity and ONEPC members considered officials who are authorized to travel on behalf of and in vehicles owned by the Nation. [2 O.C. 210.3-1(g) & (j)]. The proposed bylaws comply and are not in conflict with the Nation's Vehicle Driver Certification and Fleet Management law.
- I. **Conflict of Interest [2 O.C. Chapter 217].** This law establishes specific limitations on the handling, as well as sharing, of information or materials that are confidential in nature or could be used by the Nation's competitors and/or providers during the negotiation process to the detriment of the Nation. [2 O.C. 217.1-1]. It applies to the Nation's employees, contractors, elected officials, officers, political appointees and appointed/elected members of the Nation's boards, committees and commissions. [2 O.C. 217.1-1]. With respect to conflicts of interest, the proposed bylaws state that ONEPC members shall abide by all laws of the Nation governing conflicts of interest. [Proposed Bylaws 4-5]. In addition, ONEPC members that represent the community are required to sign a confidentiality agreement before serving in their official capacity on the ONEPC. [Proposed Bylaws 4-5]. The proposed bylaws comply and do not conflict with the Nation's Conflict of Interest law.



Title 6. Property and Land – Chapter 611

LANDLORD-TENANT

Rule # 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

- 2.1. Purpose and Delegation
- 2.2. Adoption, Amendment and Repeal
- 2.3. Definitions
- 2.4. Eligibility Requirements
- 2.5. Application Process and Wait List
- 2.6. Tenant Selection
- 2.7. Rental Unit Catalog, Setting Rents and Security Deposits
- 2.8. Annual Inspection and Rental Agreement Renewal
- 2.9. Rental Agreement Cancellation

2.1. Purpose and Delegation

2.1-1. *Purpose.* The purpose of this rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division's income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary and healthy environments within the reservation.

2.1-2. *Authority.* The Landlord-Tenant law delegated the Comprehensive Housing Division and Land Commission joint rulemaking authority pursuant to the Administrative Rulemaking law. However that delegation excluded the Land Commission from having joint authority where the rules relate solely to premises administered pursuant to federal funding. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

2.2. Adoption, Amendment and Repeal

2.2-1. This rule was adopted by the Comprehensive Housing Division in accordance with the procedures of the Administrative Rulemaking law.

2.2-2. This rule may be amended or repealed by the approval of the Comprehensive Housing Division pursuant to the procedures set out in the Administrative Rulemaking law.

2.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

2.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure or other regulation, the provisions of this rule control.

2.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Landlord-Tenant law.

2.3. Definitions

2.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) “Comprehensive Housing Division” means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.¹
- (b) “Household” means all persons residing within the income-based rental unit.
- (c) “HUD” means the United States Department of Housing and Urban Development.
- (b) “Landlord” means the Nation in its capacity to rent real property subject to a rental agreement.
- (c) “Nation” means the Oneida Nation.
- (d) “Premises” means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.
- (e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less.
- (f) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.
- (g) “Tribal member” means an enrolled member of the Nation.
- (h) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

2.4. Eligibility Requirements

2.4-1. *Tribal Member Status.* At least one (1) of the household members listed in the household composition is required to be a Tribal member. Comprehensive Housing Division staff shall verify enrollment status by either requiring a copy of the Tribal Identification Card or requesting verification from the Trust Enrollment Department.

2.4-2. *Maximum Income.* Pursuant to the Native American Housing Assistance and Self Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the household must qualify as low income at the time of initial occupancy. In order to qualify as low-income, applicants’ household income may not exceed eighty percent (80%) of the regional gross annual income based on the data from Outagamie County.² For the purposes of this section, gross annual income is all income from any and all sources of income from all adult members of the household anticipated to be received in an upcoming twelve (12) month period unless specifically excluded from income in this section. Applicants shall provide Comprehensive Housing Division staff written verification of income.

(a) For purposes of calculating income to determine eligibility, the Comprehensive Housing Division staff shall include per capita payments to the extent that receipt of per capita payment may be verified for the prior year based on the tax return.

(b) For the purpose of calculating income to determine eligibility, the Comprehensive Housing Division staff shall include in annual income net income from household assets where net household assets are defined in accordance with 24 CFR 5.603.³

¹ See BC Resolution 10-12-16-D providing that for purposes of the Landlord-Tenant law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income-based rental agreements and Elder Services for rental agreements through the Elder Services program.

² Pursuant to resolution BC-01-25-12-A, Outagamie County is designated as the data source for collecting regional gross income for determining low-income housing eligibility because the income in that area is generally higher than Brown County’s and results in more persons being eligible based on the income requirements.

³ See HUD Occupancy Handbook, Exhibit 5-2: Assets.

(bc) For purposes of calculating income to determine eligibility, the Comprehensive Housing Division staff may not include the following:

- (1) Income from employment of any household minors;
- (2) Payments received for the care of foster children and/or handicapped/mentally incompetent adults;
- (3) Lump-sum additions to household assets including, but not limited to, inheritances, insurance payments, capital gains, and settlements for personal and/or property losses, excluding payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, which are included in income;
- (4) Amounts received by the household that is specifically for, or in reimbursement of, the cost of medical expenses for any member of the household;
- (5) Income of a live-in medical aide;
- (6) Any amounts received as student financial assistance;
- (7) Income of any adult household members that are students, other than the head of household, in excess of \$480 annually; the first \$480 of annual income received by an adult student household member shall be included as income;
- (8) Payments made to any member of the household serving in the armed forces for exposure to hostile fire;
- (9) Amounts received under training programs funded by HUD;
- (10) Amounts received by persons with disabilities, which amounts are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because such amounts are set aside for use under a Plan for Achieving Self-Support;
- (11) Temporary, nonrecurring and/or sporadic income (including gifts);
- (12) Adoption assistance payments that exceed \$480 annually; the first \$480 of annual adoption assistance payments shall be included as income;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- (14) Amounts paid by a state agency to a member of the household with a developmental disability to offset the cost of services and/or equipment needed to keep the developmentally disabled member living in the household; and
- (15) Amounts specifically excluded from income by any applicable federal statute and/or regulation, specifically those identified in the Federal Register.⁴

2.4-3. *Minimum Income.* Applicants shall meet a minimum household income of \$7,800 per year. This provision is temporarily suspended in order to address the community hardships brought on by the global COVID-19 pandemic.

2.4-4. *Outstanding Debts.* Applicants for a rental agreement may not have a past due balance greater than two hundred dollars (\$200) owed to any utility provider and may not have any prior debt owed to the Comprehensive Housing Division. This provision is temporarily suspended in order to address the community hardships brought on by the global COVID-19 pandemic, provided that health and safety safeguards will continue to require applicants to be eligible to have utilities turned on in their rental units.

⁴ The most recent notice of federally required exclusions was published on December 14, 2012 and can be found in the Federal Register at 77 FR 74495.

2.4-5. *Prior Comprehensive Housing Division Eviction.* Applicants that have had a rental agreement with the Comprehensive Housing Division subject to an eviction and termination within two (2) years from the date of the application are not eligible to participate in the income-based rental program.

2.4-6. *Criminal Convictions.* Applicants with any of the following types of convictions are not eligible for participation in the income-based rental program, provided that the Pardon and Forgiveness law may provide an exception to the conditions contained in this section:

- (a) A drug conviction within three (3) years from the date of application;
- (b) A felony conviction within five (5) years from the date of application; and/or
- (c) A criminal conviction based upon an act of violence within two (2) years from the date of the application.

2.4-7. *Pardon and Forgiveness.* A grant of a pardon or forgiveness pursuant to the Nation's Pardon and Forgiveness law may result in an otherwise ineligible tenant becoming eligible.

2.5. Application Process and Wait List

2.5-1. *Applying.* Persons wishing to participate in the income-based housing program shall complete the Comprehensive Housing Division rental agreement application and any other accompanying forms required based on the income-based program eligibility requirements. The Comprehensive Housing Division staff may not consider any applications for selection and/or placement on the wait list until the application and all accompanying forms are complete. Upon receipt of a completed application, including all supplementary forms, Comprehensive Housing Division staff shall date and time stamp the application. If, regardless of a complete application submittal, additional information is required to determine eligibility, the Comprehensive Housing Division staff shall request such information and maintain the application submittal date provided that the applicant responds to the information requests in a reasonably timely fashion.

(a) *Household Composition Form.* The Comprehensive Housing Division staff shall require applicants to the income-based housing program to complete a Household Composition Form which provides the full name, age and date of birth of each person contemplated to reside in the income-based rental unit. In order to verify such information, the Comprehensive Housing Division staff shall require that applicants submit the following with the Household Composition Form:

- (1) Copies of social security cards for each person contemplated to reside in the income-based rental unit, provided that for newly born babies that have not yet been issued a social security card a birth certificate is sufficient;
- (2) A copy of a picture identification card for each adult contemplated to reside in the income-based rental unit;
- (3) If any adults in the home are enrolled in post-secondary education, verification of enrollment in the form of a financial aid award letter or other documentation directly from the school; and
- (4) If an adult in the household is the custodial parent/guardian of a minor, a copy of the court documents which awarded such placement.

(b) *Background Checks.* In order to ensure compliance with the eligibility requirements of the Landlord-Tenant law and these rules, Comprehensive Housing Division staff shall perform a background check on each adult in the household. Household adults are also subject to annual background checks upon annual rental agreement renewal pursuant to 2.8-5 and as may be determined to be necessary to maintain the safety of the community

by the Comprehensive Housing Division staff.

2.5-2. *Notification of Eligibility, Placement on the Wait List.* When Comprehensive Housing Division staff completes its review of an application and determines the applicant(s) eligible for the income-based rental program, the staff shall:

(a) Place the applicant(s) into one (1) of the following categories of renters based on the household size and needs as provided below:

(1) Single Adult/Adult Couple – A maximum of two (2) adults in the household, no children.

(2) Small Household – A maximum four (4) household members in the household.

(3) Large Household – A household of five (5) or more household members.

(4) Elder – A household with a maximum of two (2) adults and no children wherein at least one (1) adult is sixty-two (62) years old or older at the time of application.

(5) Minimum Handicap Accessibility Required – For each of the category types provided in subsections (1)-(4) above, there shall be an additional category for each requiring minimum handicap accessibility. This category shall be reserved for households with at least one (1) household member requiring permanent and minimal handicap accessibility (i.e. permanent use of a walker); this category includes all handicap needs that do not amount to full wheelchair accessibility.

(6) Maximum Handicap Accessibility Required – For each of the category types provided in subsections (1)-(4) above, there shall be an additional category for each in which at least one (1) household member requires full wheelchair handicap accessibility.

(b) Determine whether there is a wait list for the type of rental unit required based on the applicant's category of renter.

(1) If there is a wait list established, place the applicant on the wait list based on the date and time stamp of the application. At such time, Comprehensive Housing Division staff shall provide the applicant with notice of their placement on the wait list and the requirement to update their application should anything change prior to their designated use of rental unit becoming available. An applicant may request to be removed from the wait list at any time.

(2) If there is not a wait list established and there are available rental units available for the applicant's renter category, move to the tenant selection process provided in sections 2.6-3 and 2.6-4.

2.5-3. *Notification of Ineligibility.* If review of a complete submitted application and/or annual renewal reveals that an applicant is ineligible to participate in the income-based rental program based on the Landlord-Tenant law and/or rules, the Comprehensive Housing Division staff shall notify the applicant of the cause of the ineligibility and how the applicant may become eligible in the future. At such time, Comprehensive Housing Division staff shall also inform the applicant of other housing opportunities offered by the Nation for which the applicant may be eligible, if applicable.

2.5-4. *Required Application Updates.* Applicants on the wait list are required to update the application, at a minimum, annually, but also whenever information submitted on the application has changed. Applicants that fail to complete the application update within the allotted timeframe will be removed from the wait list and required to re-apply for future consideration absent proof of extenuating circumstances, for which Comprehensive Housing Division staff may provide a grace period of a maximum of ten (10) calendar days. For any updated application that reveals an

applicant has become ineligible, Comprehensive Housing Division staff shall remove the applicant from the wait list and provide the applicant notice of the cause for ineligibility.

2.6. Tenant Selection

2.6-1. Household Size and Available Units. When a rental premise becomes available, the Comprehensive Housing Division staff shall preliminarily select a tenant based on the first applicant on the wait list for the said unit type based on the corresponding renter and unit categorization. In the event that a handicap accessible unit becomes available and there are no applicants on the wait list for the said type of handicap accessible unit, an applicant from the same renter category that does not require handicap accessibility may be selected for the said unit.

2.6-2. Notice of Tenant Selection. When an applicant is selected for a rental unit in accordance with this section, the Comprehensive Housing Division staff shall provide the applicant with notice of tenant selection. The notice, at a minimum, shall include the address of the rental premise, the required security deposit and monthly rent, and a requirement that the applicant respond within fifteen (15) calendar days to accept/reject the rental premise noting that the security deposit is due at the time of acceptance. Applicants that pay a security deposit and fail to complete the selection process to actually take occupancy forfeit the security deposit to the Comprehensive Housing Division as consideration for holding the unit. Comprehensive Housing Division shall return the security deposit to the applicant only in circumstances where the applicant is prevented from entering the rental agreement based on a loss of eligibility due to circumstances outside of the applicant's control (i.e. death of a Tribal member that made the household eligible for the income-based rental program).

(a) *Failure to Respond or Rejecting a Rental Premise.* If a rental premise is rejected for any reason or the applicant fails to respond to the notice, Comprehensive Housing Division staff shall remove the applicant from the wait list; in such circumstances the applicant may re-apply for the income-based rental program following a ninety (90) calendar day period of ineligibility.

(b) *Accepting a Rental Premise.* In order for an applicant's acceptance of a rental premise to be complete, the applicant shall submit along with the acceptance a payment for the full security deposit. Prior to accepting a security deposit payment, Comprehensive Housing Department staff shall verify that the applicant remains eligible for the income-based rental program and the rental unit type based on the household's categorization.

(1) *Standard Timeframe for Completing the Rental Agreement and Taking Occupancy.* Except as provided in subsection (2) below, applicants that have accepted a rental premise from the income-based rental program have five (5) calendar days from the date of acceptance and payment of the security deposit to:

(A) Reconfirm that they remain eligible for the income-based rental program and remain in the same category of renters;

(B) Pay the first month's rent; and

(C) Execute the rental agreement and all required supplemental forms, provided that the agreement may not be executed until (A) and (B) are complete.

(2) *Extended Timeframe for Completing the Rental Agreement for Applicants Providing Termination Notice to Another Landlord or Housing Program.* The Comprehensive Housing Division offers an extended timeframe for applicants required to provide thirty (30) or more calendar or business days' notice of

termination of a rental agreement to a current landlord or housing program. In such circumstances, in order to qualify for the extended timeframe, the applicant shall provide proof of the notice requirement in his/her current rental agreement by submitting the signed rental agreement to the Comprehensive Housing Division. Upon submittal of such proof, the applicant shall have thirty (30) calendar days from the date of acceptance and payment of the security deposit to:

(A) Reconfirm that they remain eligible for the income-based rental program and remain in the same category of renters;

(B) Pay the first month's rent; and

(C) Execute the rental agreement and all required supplemental forms, provided that the agreement may not be executed until (A) and (B) are complete.

(3) *Taking Occupancy.* The Comprehensive Housing Division shall provide the tenant with keys to the rental premises upon execution of the rental agreement. As such time, the Comprehensive Housing Division staff shall provide the tenant with a check-in sheet and notice the tenant that he/she has seven (7) calendar days from the date the tenant takes occupancy to complete the check-in sheet and submit it to the Comprehensive Housing Division.

2.7. Rental Unit Catalog, Setting Rents and Security Deposits

2.7-1. *Rental Unit Catalog.* The Comprehensive Housing Division shall maintain a catalog of all rental units included in the income-based rental program. Said catalog shall categorize each rental unit based on designated use for the type of renter in accordance with the types of renters established in section 2.5-2(a).

2.7-2. *Setting Rents.* The Comprehensive Housing Division shall determine the required monthly rent for each household based on the household's income in accordance with the following:

(a) Rent may not exceed thirty percent (30%) of the household's adjusted gross income based on the income calculation requirements provided in section 2.4-3. Adjusted gross income means the annual household income remaining after the Comprehensive Housing Division staff applies the following deductions:

(1) *Dependent Deduction.* A deduction of \$480.00 from annual income for each household minor dependent or adult dependent where the adult dependent is either a full-time student or a person with disabilities.

(2) *Elder and/or Disabled Deduction.* A total deduction of \$400.00 from annual income for a household in which:

(A) A household member is sixty-two (62) years of age or older; and/or

(B) A household member is a person with a disability.

(3) *Medical and Attendant Expenses.* For a household qualifying under 2.7-2(a)(2), a deduction for medical expenses⁵ that are in excess of three percent (3%) of annual income and all expenses for live-in periodic attendant care assistance or apparatus to the extent necessary to enable a member of the family to be employed.

(4) *Child Care Expenses.* A deduction for reasonable child care expenses from annual income if the child care:

(A) Enables an adult household member to seek employment activity, be gainfully employed, or further his/her education; and

⁵ Medical expenses are those identified in Title VII, Section IV of NAHASDA.

(B) Expenses are not reimbursed.

(5) *Child Support for a Household Minor.* A deduction for the full amount of child support paid by a household member for a household minor (i.e. when the parent paying child support lives in the same household as the child for which the parent is paying child support).

(6) *Earned Income of Minors.* A deduction in the amount of any earned income of any minor household member.

(7) *Travel Expenses for Employment or Education-Related Travel.* A maximum deduction of \$25.00 per week for travel expenses for employment or education related travel.

(b) Monthly rent may not exceed the fair market rents of the rental premise as determined by the data for Outagamie County.

(c) Households with any member that qualifies as a party listed below shall receive preferential rent wherein the Comprehensive Housing Division may not charge rent that exceeds twenty percent (20%) of the household's adjusted gross income based on the income calculation requirements provided in section 2.4-3.

(1) Elder Tribal Member – A Tribal member that is sixty-two (62) years old or older.

(2) Handicapped Tribal Member – A Tribal member that has a physical disability as documented by a medical provider/or proof of disability payments.

(3) Legally Incompetent Adult Tribal Member – A Tribal member that has been determined to be a legally incompetent adult based on the findings of a court of competent jurisdiction.

(4) Mentally Disabled Minor Tribal Member – A Tribal member under the age of eighteen (18) years old that has a mental disability as documented by a medical provider.

2.7-3. *Standard Security Deposit.* Comprehensive Housing Division staff shall set the standard security deposit required for each rental premise in the income-based rental program at \$350.00.

2.7-4. *Increased Security Deposit for Pets.* Tenants in the Comprehensive Housing Division's general rental program may have pets in accordance with the Domestic Animal Ordinance, provided that an increased security deposit is required.

(a) The standard security deposit does not apply to tenants with pets. Comprehensive Housing Division staff shall set the increased security deposit required for households with pets at a rate of \$350.00 plus an additional \$200.00 per pet.

(b) In the event that a tenant wishes to acquire a pet after the rental agreement has been signed, the tenant shall notify the Comprehensive Housing Division and shall pay the difference between the increased security deposit for pets and the standard security deposit. Tenants that fail to report a pet in the household may be assessed charges for an increased security deposit for pets if such pets are reported to the Comprehensive Housing Division and/or discovered at the time of an inspection.

2.8. Annual Inspection and Rental Agreement Renewal

2.8-1. *Scheduling Annual Inspections.* Comprehensive Housing Division staff shall schedule tenants' annual inspections for a date that is within ninety (90) calendar days of the expiration of the tenants' rental agreement.

2.8-2. *Inspection Checklist.* Comprehensive Housing Division staff completing the annual

inspection shall use the checklist that is approved by the Comprehensive Housing Division director. Upon completion of the inspection, Comprehensive Housing Division staff shall request that the tenant(s) sign the completed checklist.

2.8-3. *Damages.* Tenants are required to pay costs to repair any damages to the rental premises discovered during the annual inspection that do not amount to normal wear and tear. Payment for such costs must be received by the Comprehensive Housing Division prior to signing a rental agreement renewal, provided that the Comprehensive Housing Division may offer the tenant a payment agreement in for the damages, in which case the repayment agreement shall be signed prior to the rental agreement renewal.

2.8-4. *Immediate Notice of Change in Household Composition and/or Income.* Tenants shall immediately notify the Comprehensive Housing Division of any change in the tenant's household composition and/or income, regardless of the date scheduled for the annual renewal.

(a) *Change in Household Composition.* If a change in the household composition changes the tenant's category of renter based on section 2.5-2(a), the Comprehensive Housing Division staff shall work to transfer the household to a rental unit of corresponding category as soon as possible. If no such units are currently available, Comprehensive Housing Division staff shall move the tenant to the top of the waiting list. In order to be transferred or placed on a wait list, the tenant shall demonstrate that they remain eligible for the income-based rental program and are current with rent and utility payments. Tenants are only eligible for rental unit transfers within their current category of renter if, in the Comprehensive Housing Division's discretion, the transfer is needed to better accommodate the household composition.

(b) *Change in Household Income.* A change in household income may cause a change in the amount of monthly rent required, accordingly, any change in household income that is not reported within thirty (30) calendar days of the change shall result in a retroactive adjustment of the rent if the change results in an increase of rent payments. Retroactive rent shall be applied for each month there was a change in income that was not reported, excluding the initial thirty (30) calendar days provided to the tenant to report the change. The tenant is responsible for payment of all current and retroactive adjustments of rent and may be eligible for a repayment agreement, provided that in all circumstances and retroactive rental arrears shall be paid in full within one (1) year.

(c) *Rental Agreement Amendment.* Should a change in household size and/or income cause a change in the terms of the tenant's rental agreement, an amendment to the rental agreement is required to be executed.

2.8-5. *Rental Agreement Renewal.* Each rental agreement is limited to a twelve (12) month term. Tenants wishing to remain in the property are required to complete the annual rental agreement renewal by verifying that the household continues to meet all eligibility requirements contained in the Landlord-Tenant law and rules excluding the maximum income requirement provided in article 2.4-2. Once continued eligibility is verified, tenants that remain eligible are required to sign a rental agreement renewal.

(a) The Comprehensive Housing Division may, in its discretion, decline renewal of a rental agreement if it determines that the renewal is not in the best interest of the Nation. (b)

In the event a tenant fails to enter a rental agreement renewal and has not vacated the rental premises within thirty (30) calendar days of the expiration of the rental agreement, the Comprehensive Housing Division shall initiate the eviction process pursuant to the Eviction and Termination law.

2.8-6. *Ineligibility Due to Renewal or an Update of Household Information.* Comprehensive Housing Division staff shall provide tenants that become ineligible to participate in the income-based rental program based on a renewal or update of household information with notice specifying the cause of the ineligibility and, if possible, how the household may reinstate eligibility.

(a) *Ineligibility Due to Renewal.* In circumstances where the tenant learns of ineligibility as part of the annual renewal, Comprehensive Housing Division staff shall include in the notice of ineligibility that renewal of the rental agreement is not available at such time and that the tenant is entitled to a minimum of a thirty (30) day notice to cure, by reinstating eligibility, or vacate.

(b) *Ineligibility Due to an Update of Household Information.* In circumstances where the tenant learns of ineligibility as part of an update of household information, Comprehensive Housing Division staff shall include in the notice of ineligibility the warning of potential termination in accordance with the rental agreement. In the event the tenant is unable to or fails to reinstate their eligibility in accordance with the timeline provided in the notice, the Comprehensive Housing Division shall permit the tenant to remain in the unit for the longer of the duration of the rental agreement or ninety (90) calendar days from the date of the notice of ineligibility.

(1) If the tenants' circumstances result in the tenant completing the term of the rental agreement, eligibility shall be reconsidered at the time of the annual renewal. If the tenant remains ineligible at the time of renewal, article 2.8-6(a) applies.

(2) If the tenants' circumstances result in the tenant receiving a thirty (30) calendar day notice to cure or ninety (90) calendar day notice to vacate, the tenant shall enter a limited term rental agreement to cover any time which exceeds the current rental agreement.

(c) *Limited Term Rental Agreements.* Limited term rental agreements are available in accordance with article 2.8-6(a) and (b) of these rules and section 611.9-4 of the Landlord-Tenant law. At a minimum, limited term rental agreement shall include:

(1) The date of the original notice of ineligibility;

(2) An explanation that the tenant has thirty (30) calendar days to reinstate eligibility;

(3) As applicable, an explanation that if eligibility is not timely reinstated, that the limited term rental agreement takes the place of the thirty (30) calendar day notice to cure or vacate required by the Eviction and Termination law; and

(4) An explanation that if eligibility is not timely reinstated, the rental unit will be reclaimed including the date the locks will be changed.

2.9. Rental Agreement Cancellation

2.9-1. *Two Week Notice Required.* Tenant wishing to cancel a rental agreement in the general rental program are requested to provide the Comprehensive Housing Division with a minimum of two (2) weeks of notice.

2.9-2. *Prorated Rent.* In the event of cancellation of a rental agreement or abandonment of the rental premises, the Comprehensive Housing Division staff shall prorate the required last month's rent payment based upon the greater of the following:

(a) The number of calendar days the unit was occupied in the last month; or

(b) Two (2) weeks from the date of cancellation or the date the Comprehensive Housing

448 Division learns of abandonment.

449

450 *End.*

451

452

Original effective date: 04-13-17

453 Amended:

454



Title 6. Property and Land – Chapter 611

LANDLORD-TENANT

Rule # 2 – Income Based Rental Program Eligibility, Selection and Other Requirements

- 2.1. Purpose and Delegation
- 2.2. Adoption, Amendment and Repeal
- 2.3. Definitions
- 2.4. Eligibility Requirements
- 2.5. Application Process and Wait List
- 2.6. Tenant Selection
- 2.7. Rental Unit Catalog, Setting Rents
and Security Deposits
- 2.8. Annual Inspection and Rental
Agreement Renewal
- 2.9. Rental Agreement Cancellation

2.1. Purpose and Delegation

2.1-1. *Purpose.* The purpose of this rule is to provide additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division's income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary and healthy environments within the reservation.

2.1-2. *Authority.* The Landlord-Tenant law delegated the Comprehensive Housing Division and Land Commission joint rulemaking authority pursuant to the Administrative Rulemaking law. However that delegation excluded the Land Commission from having joint authority where the rules relate solely to premises administered pursuant to federal funding. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for these rules.

2.2. Adoption, Amendment and Repeal

2.2-1. This rule was adopted by the Comprehensive Housing Division in accordance with the procedures of the Administrative Rulemaking law.

2.2-2. This rule may be amended or repealed by the approval of the Comprehensive Housing Division pursuant to the procedures set out in the Administrative Rulemaking law.

2.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

2.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure or other regulation, the provisions of this rule control.

2.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Landlord-Tenant law.

2.3. Definitions

2.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) “Comprehensive Housing Division” means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.¹
- (b) “Household” means all persons residing within the income-based rental unit.
- (c) “HUD” means the United States Department of Housing and Urban Development.
- (b) “Landlord” means the Nation in its capacity to rent real property subject to a rental agreement.
- (c) “Nation” means the Oneida Nation.
- (d) “Premises” means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.
- (e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less.
- (f) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.
- (g) “Tribal member” means an enrolled member of the Nation.
- (h) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

2.4. Eligibility Requirements

2.4-1. *Tribal Member Status.* At least one (1) of the household members listed in the household composition is required to be a Tribal member. Comprehensive Housing Division staff shall verify enrollment status by either requiring a copy of the Tribal Identification Card or requesting verification from the Trust Enrollment Department.

2.4-2. *Maximum Income.* Pursuant to the Native American Housing Assistance and Self Determination Act (NAHASDA), in order to be eligible for an income-based rental agreement, the household must qualify as low income at the time of initial occupancy. In order to qualify as low-income, applicants’ household income may not exceed eighty percent (80%) of the regional gross annual income based on the data from Outagamie County.² For the purposes of this section, gross annual income is all income from any and all sources of income from all adult members of the household anticipated to be received in an upcoming twelve (12) month period unless specifically excluded from income in this section. Applicants shall provide Comprehensive Housing Division staff written verification of income.

(a) For purposes of calculating income to determine eligibility, the Comprehensive Housing Division staff shall include per capita payments to the extent that receipt of per capita payment may be verified for the prior year based on the tax return.

(b) For the purpose of calculating income to determine eligibility, the Comprehensive Housing Division staff shall include in annual income net income from household assets where net household assets are defined in accordance with 24 CFR 5.603.³

¹ See BC Resolution 10-12-16-D providing that for purposes of the Landlord-Tenant law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income-based rental agreements and Elder Services for rental agreements through the Elder Services program.

² Pursuant to resolution BC-01-25-12-A, Outagamie County is designated as the data source for collecting regional gross income for determining low-income housing eligibility because the income in that area is generally higher than Brown County’s and results in more persons being eligible based on the income requirements.

³ See HUD Occupancy Handbook, Exhibit 5-2: Assets.

(c) For purposes of calculating income to determine eligibility, the Comprehensive Housing Division staff may not include the following:

- (1) Income from employment of any household minors;
- (2) Payments received for the care of foster children and/or handicapped/mentally incompetent adults;
- (3) Lump-sum additions to household assets including, but not limited to, inheritances, insurance payments, capital gains, and settlements for personal and/or property losses, excluding payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, which are included in income;
- (4) Amounts received by the household that is specifically for, or in reimbursement of, the cost of medical expenses for any member of the household;
- (5) Income of a live-in medical aide;
- (6) Any amounts received as student financial assistance;
- (7) Income of any adult household members that are students, other than the head of household, in excess of \$480 annually; the first \$480 of annual income received by an adult student household member shall be included as income;
- (8) Payments made to any member of the household serving in the armed forces for exposure to hostile fire;
- (9) Amounts received under training programs funded by HUD;
- (10) Amounts received by persons with disabilities, which amounts are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because such amounts are set aside for use under a Plan for Achieving Self-Support;
- (11) Temporary, nonrecurring and/or sporadic income (including gifts);
- (12) Adoption assistance payments that exceed \$480 annually; the first \$480 of annual adoption assistance payments shall be included as income;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- (14) Amounts paid by a state agency to a member of the household with a developmental disability to offset the cost of services and/or equipment needed to keep the developmentally disabled member living in the household; and
- (15) Amounts specifically excluded from income by any applicable federal statute and/or regulation, specifically those identified in the Federal Register.⁴

2.4-3. *Minimum Income.* Applicants shall meet a minimum household income of \$7,800 per year. This provision is temporarily suspended in order to address the community hardships brought on by the global COVID-19 pandemic.

2.4-4. *Outstanding Debts.* Applicants for a rental agreement may not have a past due balance greater than two hundred dollars (\$200) owed to any utility provider and may not have any prior debt owed to the Comprehensive Housing Division. This provision is temporarily suspended in order to address the community hardships brought on by the global COVID-19 pandemic, provided that health and safety safeguards will continue to require applicants to be eligible to have utilities turned on in their rental units.

⁴ The most recent notice of federally required exclusions was published on December 14, 2012 and can be found in the Federal Register at 77 FR 74495.

2.4-5. *Prior Comprehensive Housing Division Eviction.* Applicants that have had a rental agreement with the Comprehensive Housing Division subject to an eviction and termination within two (2) years from the date of the application are not eligible to participate in the income-based rental program.

2.4-6. *Criminal Convictions.* Applicants with any of the following types of convictions are not eligible for participation in the income-based rental program, provided that the Pardon and Forgiveness law may provide an exception to the conditions contained in this section:

- (a) A drug conviction within three (3) years from the date of application;
- (b) A felony conviction within five (5) years from the date of application; and/or
- (c) A criminal conviction based upon an act of violence within two (2) years from the date of the application.

2.4-7. *Pardon and Forgiveness.* A grant of a pardon or forgiveness pursuant to the Nation's Pardon and Forgiveness law may result in an otherwise ineligible tenant becoming eligible.

2.5. Application Process and Wait List

2.5-1. *Applying.* Persons wishing to participate in the income-based housing program shall complete the Comprehensive Housing Division rental agreement application and any other accompanying forms required based on the income-based program eligibility requirements. The Comprehensive Housing Division staff may not consider any applications for selection and/or placement on the wait list until the application and all accompanying forms are complete. Upon receipt of a completed application, including all supplementary forms, Comprehensive Housing Division staff shall date and time stamp the application. If, regardless of a complete application submittal, additional information is required to determine eligibility, the Comprehensive Housing Division staff shall request such information and maintain the application submittal date provided that the applicant responds to the information requests in a reasonably timely fashion.

(a) *Household Composition Form.* The Comprehensive Housing Division staff shall require applicants to the income-based housing program to complete a Household Composition Form which provides the full name, age and date of birth of each person contemplated to reside in the income-based rental unit. In order to verify such information, the Comprehensive Housing Division staff shall require that applicants submit the following with the Household Composition Form:

- (1) Copies of social security cards for each person contemplated to reside in the income-based rental unit, provided that for newly born babies that have not yet been issued a social security card a birth certificate is sufficient;
- (2) A copy of a picture identification card for each adult contemplated to reside in the income-based rental unit;
- (3) If any adults in the home are enrolled in post-secondary education, verification of enrollment in the form of a financial aid award letter or other documentation directly from the school; and
- (4) If an adult in the household is the custodial parent/guardian of a minor, a copy of the court documents which awarded such placement.

(b) *Background Checks.* In order to ensure compliance with the eligibility requirements of the Landlord-Tenant law and these rules, Comprehensive Housing Division staff shall perform a background check on each adult in the household. Household adults are also subject to annual background checks upon annual rental agreement renewal pursuant to 2.8-5 and as may be determined to be necessary to maintain the safety of the community

by the Comprehensive Housing Division staff.

2.5-2. *Notification of Eligibility, Placement on the Wait List.* When Comprehensive Housing Division staff completes its review of an application and determines the applicant(s) eligible for the income-based rental program, the staff shall:

(a) Place the applicant(s) into one (1) of the following categories of renters based on the household size and needs as provided below:

(1) Single Adult/Adult Couple – A maximum of two (2) adults in the household, no children.

(2) Small Household – A maximum four (4) household members in the household.

(3) Large Household – A household of five (5) or more household members.

(4) Elder – A household with a maximum of two (2) adults and no children wherein at least one (1) adult is sixty-two (62) years old or older at the time of application.

(5) Minimum Handicap Accessibility Required – For each of the category types provided in subsections (1)-(4) above, there shall be an additional category for each requiring minimum handicap accessibility. This category shall be reserved for households with at least one (1) household member requiring permanent and minimal handicap accessibility (i.e. permanent use of a walker); this category includes all handicap needs that do not amount to full wheelchair accessibility.

(6) Maximum Handicap Accessibility Required – For each of the category types provided in subsections (1)-(4) above, there shall be an additional category for each in which at least one (1) household member requires full wheelchair handicap accessibility.

(b) Determine whether there is a wait list for the type of rental unit required based on the applicant's category of renter.

(1) If there is a wait list established, place the applicant on the wait list based on the date and time stamp of the application. At such time, Comprehensive Housing Division staff shall provide the applicant with notice of their placement on the wait list and the requirement to update their application should anything change prior to their designated use of rental unit becoming available. An applicant may request to be removed from the wait list at any time.

(2) If there is not a wait list established and there are available rental units available for the applicant's renter category, move to the tenant selection process provided in sections 2.6-3 and 2.6-4.

2.5-3. *Notification of Ineligibility.* If review of a complete submitted application and/or annual renewal reveals that an applicant is ineligible to participate in the income-based rental program based on the Landlord-Tenant law and/or rules, the Comprehensive Housing Division staff shall notify the applicant of the cause of the ineligibility and how the applicant may become eligible in the future. At such time, Comprehensive Housing Division staff shall also inform the applicant of other housing opportunities offered by the Nation for which the applicant may be eligible, if applicable.

2.5-4. *Required Application Updates.* Applicants on the wait list are required to update the application, at a minimum, annually, but also whenever information submitted on the application has changed. Applicants that fail to complete the application update within the allotted timeframe will be removed from the wait list and required to re-apply for future consideration absent proof of extenuating circumstances, for which Comprehensive Housing Division staff may provide a grace period of a maximum of ten (10) calendar days. For any updated application that reveals an

applicant has become ineligible, Comprehensive Housing Division staff shall remove the applicant from the wait list and provide the applicant notice of the cause for ineligibility.

2.6. Tenant Selection

2.6-1. Household Size and Available Units. When a rental premise becomes available, the Comprehensive Housing Division staff shall preliminarily select a tenant based on the first applicant on the wait list for the said unit type based on the corresponding renter and unit categorization. In the event that a handicap accessible unit becomes available and there are no applicants on the wait list for the said type of handicap accessible unit, an applicant from the same renter category that does not require handicap accessibility may be selected for the said unit.

2.6-2. Notice of Tenant Selection. When an applicant is selected for a rental unit in accordance with this section, the Comprehensive Housing Division staff shall provide the applicant with notice of tenant selection. The notice, at a minimum, shall include the address of the rental premise, the required security deposit and monthly rent, and a requirement that the applicant respond within fifteen (15) calendar days to accept/reject the rental premise noting that the security deposit is due at the time of acceptance. Applicants that pay a security deposit and fail to complete the selection process to actually take occupancy forfeit the security deposit to the Comprehensive Housing Division as consideration for holding the unit. Comprehensive Housing Division shall return the security deposit to the applicant only in circumstances where the applicant is prevented from entering the rental agreement based on a loss of eligibility due to circumstances outside of the applicant's control (i.e. death of a Tribal member that made the household eligible for the income-based rental program).

(a) *Failure to Respond or Rejecting a Rental Premise.* If a rental premise is rejected for any reason or the applicant fails to respond to the notice, Comprehensive Housing Division staff shall remove the applicant from the wait list; in such circumstances the applicant may re-apply for the income-based rental program following a ninety (90) calendar day period of ineligibility.

(b) *Accepting a Rental Premise.* In order for an applicant's acceptance of a rental premise to be complete, the applicant shall submit along with the acceptance a payment for the full security deposit. Prior to accepting a security deposit payment, Comprehensive Housing Department staff shall verify that the applicant remains eligible for the income-based rental program and the rental unit type based on the household's categorization.

(1) *Standard Timeframe for Completing the Rental Agreement and Taking Occupancy.* Except as provided in subsection (2) below, applicants that have accepted a rental premise from the income-based rental program have five (5) calendar days from the date of acceptance and payment of the security deposit to:

(A) Reconfirm that they remain eligible for the income-based rental program and remain in the same category of renters;

(B) Pay the first month's rent; and

(C) Execute the rental agreement and all required supplemental forms, provided that the agreement may not be executed until (A) and (B) are complete.

(2) *Extended Timeframe for Completing the Rental Agreement for Applicants Providing Termination Notice to Another Landlord or Housing Program.* The Comprehensive Housing Division offers an extended timeframe for applicants required to provide thirty (30) or more calendar or business days' notice of

265 termination of a rental agreement to a current landlord or housing program. In such
266 circumstances, in order to qualify for the extended timeframe, the applicant shall
267 provide proof of the notice requirement in his/her current rental agreement by
268 submitting the signed rental agreement to the Comprehensive Housing Division.
269 Upon submittal of such proof, the applicant shall have thirty (30) calendar days
270 from the date of acceptance and payment of the security deposit to:

271 (A) Reconfirm that they remain eligible for the income-based rental
272 program and remain in the same category of renters;

273 (B) Pay the first month's rent; and

274 (C) Execute the rental agreement and all required supplemental forms,
275 provided that the agreement may not be executed until (A) and (B) are
276 complete.

277 (3) *Taking Occupancy*. The Comprehensive Housing Division shall provide the
278 tenant with keys to the rental premises upon execution of the rental agreement. As
279 such time, the Comprehensive Housing Division staff shall provide the tenant with
280 a check-in sheet and notice the tenant that he/she has seven (7) calendar days from
281 the date the tenant takes occupancy to complete the check-in sheet and submit it to
282 the Comprehensive Housing Division.
283

284 **2.7. Rental Unit Catalog, Setting Rents and Security Deposits**

285 2.7-1. *Rental Unit Catalog*. The Comprehensive Housing Division shall maintain a catalog of all
286 rental units included in the income-based rental program. Said catalog shall categorize each rental
287 unit based on designated use for the type of renter in accordance with the types of renters
288 established in section 2.5-2(a).

289 2.7-2. *Setting Rents*. The Comprehensive Housing Division shall determine the required monthly
290 rent for each household based on the household's income in accordance with the following:

291 (a) Rent may not exceed thirty percent (30%) of the household's adjusted gross income
292 based on the income calculation requirements provided in section 2.4-3. Adjusted gross
293 income means the annual household income remaining after the Comprehensive Housing
294 Division staff applies the following deductions:

295 (1) *Dependent Deduction*. A deduction of \$480.00 from annual income for each
296 household minor dependent or adult dependent where the adult dependent is either
297 a full-time student or a person with disabilities.

298 (2) *Elder and/or Disabled Deduction*. A total deduction of \$400.00 from annual
299 income for a household in which:

300 (A) A household member is sixty-two (62) years of age or older; and/or

301 (B) A household member is a person with a disability.

302 (3) *Medical and Attendant Expenses*. For a household qualifying under 2.7-2(a)(2),
303 a deduction for medical expenses⁵ that are in excess of three percent (3%) of annual
304 income and all expenses for live-in periodic attendant care assistance or apparatus
305 to the extent necessary to enable a member of the family to be employed.

306 (4) *Child Care Expenses*. A deduction for reasonable child care expenses from
307 annual income if the child care:

308 (A) Enables an adult household member to seek employment activity, be
309 gainfully employed, or further his/her education; and

⁵ Medical expenses are those identified in Title VII, Section IV of NAHASDA.

(B) Expenses are not reimbursed.

(5) *Child Support for a Household Minor.* A deduction for the full amount of child support paid by a household member for a household minor (i.e. when the parent paying child support lives in the same household as the child for which the parent is paying child support).

(6) *Earned Income of Minors.* A deduction in the amount of any earned income of any minor household member.

(7) *Travel Expenses for Employment or Education-Related Travel.* A maximum deduction of \$25.00 per week for travel expenses for employment or education related travel.

(b) Monthly rent may not exceed the fair market rents of the rental premise as determined by the data for Outagamie County.

(c) Households with any member that qualifies as a party listed below shall receive preferential rent wherein the Comprehensive Housing Division may not charge rent that exceeds twenty percent (20%) of the household's adjusted gross income based on the income calculation requirements provided in section 2.4-3.

(1) Elder Tribal Member – A Tribal member that is sixty-two (62) years old or older.

(2) Handicapped Tribal Member – A Tribal member that has a physical disability as documented by a medical provider/or proof of disability payments.

(3) Legally Incompetent Adult Tribal Member – A Tribal member that has been determined to be a legally incompetent adult based on the findings of a court of competent jurisdiction.

(4) Mentally Disabled Minor Tribal Member – A Tribal member under the age of eighteen (18) years old that has a mental disability as documented by a medical provider.

2.7-3. *Standard Security Deposit.* Comprehensive Housing Division staff shall set the standard security deposit required for each rental premise in the income-based rental program at \$350.00.

2.7-4. *Increased Security Deposit for Pets.* Tenants in the Comprehensive Housing Division's general rental program may have pets in accordance with the Domestic Animal Ordinance, provided that an increased security deposit is required.

(a) The standard security deposit does not apply to tenants with pets. Comprehensive Housing Division staff shall set the increased security deposit required for households with pets at a rate of \$350.00 plus an additional \$200.00 per pet.

(b) In the event that a tenant wishes to acquire a pet after the rental agreement has been signed, the tenant shall notify the Comprehensive Housing Division and shall pay the difference between the increased security deposit for pets and the standard security deposit. Tenants that fail to report a pet in the household may be assessed charges for an increased security deposit for pets if such pets are reported to the Comprehensive Housing Division and/or discovered at the time of an inspection.

2.8. Annual Inspection and Rental Agreement Renewal

2.8-1. *Scheduling Annual Inspections.* Comprehensive Housing Division staff shall schedule tenants' annual inspections for a date that is within ninety (90) calendar days of the expiration of the tenants' rental agreement.

2.8-2. *Inspection Checklist.* Comprehensive Housing Division staff completing the annual

inspection shall use the checklist that is approved by the Comprehensive Housing Division director. Upon completion of the inspection, Comprehensive Housing Division staff shall request that the tenant(s) sign the completed checklist.

2.8-3. *Damages.* Tenants are required to pay costs to repair any damages to the rental premises discovered during the annual inspection that do not amount to normal wear and tear. Payment for such costs must be received by the Comprehensive Housing Division prior to signing a rental agreement renewal, provided that the Comprehensive Housing Division may offer the tenant a payment agreement in for the damages, in which case the repayment agreement shall be signed prior to the rental agreement renewal.

2.8-4. *Immediate Notice of Change in Household Composition and/or Income.* Tenants shall immediately notify the Comprehensive Housing Division of any change in the tenant's household composition and/or income, regardless of the date scheduled for the annual renewal.

(a) *Change in Household Composition.* If a change in the household composition changes the tenant's category of renter based on section 2.5-2(a), the Comprehensive Housing Division staff shall work to transfer the household to a rental unit of corresponding category as soon as possible. If no such units are currently available, Comprehensive Housing Division staff shall move the tenant to the top of the waiting list. In order to be transferred or placed on a wait list, the tenant shall demonstrate that they remain eligible for the income-based rental program and are current with rent and utility payments. Tenants are only eligible for rental unit transfers within their current category of renter if, in the Comprehensive Housing Division's discretion, the transfer is needed to better accommodate the household composition.

(b) *Change in Household Income.* A change in household income may cause a change in the amount of monthly rent required, accordingly, any change in household income that is not reported within thirty (30) calendar days of the change shall result in a retroactive adjustment of the rent if the change results in an increase of rent payments. Retroactive rent shall be applied for each month there was a change in income that was not reported, excluding the initial thirty (30) calendar days provided to the tenant to report the change. The tenant is responsible for payment of all current and retroactive adjustments of rent and may be eligible for a repayment agreement, provided that in all circumstances and retroactive rental arrears shall be paid in full within one (1) year.

(c) *Rental Agreement Amendment.* Should a change in household size and/or income cause a change in the terms of the tenant's rental agreement, an amendment to the rental agreement is required to be executed.

2.8-5. *Rental Agreement Renewal.* Each rental agreement is limited to a twelve (12) month term. Tenants wishing to remain in the property are required to complete the annual rental agreement renewal by verifying that the household continues to meet all eligibility requirements contained in the Landlord-Tenant law and rules excluding the maximum income requirement provided in article 2.4-2. Once continued eligibility is verified, tenants that remain eligible are required to sign a rental agreement renewal.

(a) The Comprehensive Housing Division may, in its discretion, decline renewal of a rental agreement if it determines that the renewal is not in the best interest of the Nation. (b)

In the event a tenant fails to enter a rental agreement renewal and has not vacated the rental premises within thirty (30) calendar days of the expiration of the rental agreement, the Comprehensive Housing Division shall initiate the eviction process pursuant to the Eviction and Termination law.

2.8-6. *Ineligibility Due to Renewal or an Update of Household Information.* Comprehensive Housing Division staff shall provide tenants that become ineligible to participate in the income-based rental program based on a renewal or update of household information with notice specifying the cause of the ineligibility and, if possible, how the household may reinstate eligibility.

(a) *Ineligibility Due to Renewal.* In circumstances where the tenant learns of ineligibility as part of the annual renewal, Comprehensive Housing Division staff shall include in the notice of ineligibility that renewal of the rental agreement is not available at such time and that the tenant is entitled to a minimum of a thirty (30) day notice to cure, by reinstating eligibility, or vacate.

(b) *Ineligibility Due to an Update of Household Information.* In circumstances where the tenant learns of ineligibility as part of an update of household information, Comprehensive Housing Division staff shall include in the notice of ineligibility the warning of potential termination in accordance with the rental agreement. In the event the tenant is unable to or fails to reinstate their eligibility in accordance with the timeline provided in the notice, the Comprehensive Housing Division shall permit the tenant to remain in the unit for the longer of the duration of the rental agreement or ninety (90) calendar days from the date of the notice of ineligibility.

(1) If the tenants' circumstances result in the tenant completing the term of the rental agreement, eligibility shall be reconsidered at the time of the annual renewal. If the tenant remains ineligible at the time of renewal, article 2.8-6(a) applies.

(2) If the tenants' circumstances result in the tenant receiving a thirty (30) calendar day notice to cure or ninety (90) calendar day notice to vacate, the tenant shall enter a limited term rental agreement to cover any time which exceeds the current rental agreement.

(c) *Limited Term Rental Agreements.* Limited term rental agreements are available in accordance with article 2.8-6(a) and (b) of these rules and section 611.9-4 of the Landlord-Tenant law. At a minimum, limited term rental agreement shall include:

(1) The date of the original notice of ineligibility;

(2) An explanation that the tenant has thirty (30) calendar days to reinstate eligibility;

(3) As applicable, an explanation that if eligibility is not timely reinstated, that the limited term rental agreement takes the place of the thirty (30) calendar day notice to cure or vacate required by the Eviction and Termination law; and

(4) An explanation that if eligibility is not timely reinstated, the rental unit will be reclaimed including the date the locks will be changed.

2.9. Rental Agreement Cancellation

2.9-1. *Two Week Notice Required.* Tenant wishing to cancel a rental agreement in the general rental program are requested to provide the Comprehensive Housing Division with a minimum of two (2) weeks of notice.

2.9-2. *Prorated Rent.* In the event of cancellation of a rental agreement or abandonment of the rental premises, the Comprehensive Housing Division staff shall prorate the required last month's rent payment based upon the greater of the following:

(a) The number of calendar days the unit was occupied in the last month; or

(b) Two (2) weeks from the date of cancellation or the date the Comprehensive Housing

448 Division learns of abandonment.

449

450 *End.*

451

452 Original effective date: 04-13-17

453 Amended:

454

Summary Report for: Title 6. Property and Land – Chapter 611, Landlord-Tenant Law,
Rule #2 Income Based Rental Program Eligibility, Selection and Other Requirements

Original Effective Date: 4/13/2017

Amendment Effective Date: 1/27/2021

Name of Rule: Income Based Rental Program Eligibility, Selection and Other Requirements

Name of law being interpreted: Title 6. Property and Land – Chapter 611 Landlord-Tenant

Rule Number: 2

Other Laws or Rules that may be affected: N/A

Brief Summary of the proposed rule:

- section 2.4-3 of the rule includes in its eligibility criteria a requirement that applicants meet a minimum income of \$7,800 per year; and
- section 2.4-4 of the rule includes in its eligibility criteria a requirement that applicants not have an outstanding balance greater than \$200 owed to any utility provider and have no prior debt owed to the Comprehensive Housing Division; and
- these eligibility requirements are required to be met when tenants are initially selected for units, usually off of the waitlist, and also when existing tenants renew their rental agreements on an annual basis; and
- these eligibility protections were originally put in place to protect both the landlord and the tenant in order to avoid setting a tenant up for failure in a housing situation they could not afford; and
- these eligibility requirements are temporarily suspended in order to address the community hardships brought on by the global COVID-19 pandemic, provided that health and safety safeguards will continue to require applicants to be eligible to have utilities turned on in their rental units; and
- it should be noted in order to comply with HUD requirements tenants will continue to be required to:
 - o submit annual rental agreement renewal information;
 - o submit information related to changes in household income and/or household members within thirty (30) days of the change; and
 - o be responsible for rent payments based on the income that tenants do report.

Statement of Effect: See Attached.

Financial Analyses: See Attached.

**Financial Analysis for the Emergency Amendment to Rule#2 Income Based
Rental Program Eligibility, Selection and Other Requirements.**

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs	N/A	\$0
Personnel	N/A	\$0
Office	N/A	\$0
Documentation Costs	N/A	\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation	1 WEEK	\$0
Other, please explain	PROGRAM INCOME WILL BE IMPACTED NEGATIVELY	
Total	Annual Net Revenue	



Statement of Effect

Emergency Amendments to Landlord-Tenant Law Rule No.2 – Income Based Rental Program Eligibility, Selection and Other Requirements

Summary

This emergency amendments to Landlord-Tenant Law Rule No. 2 temporarily suspend the minimum income eligibility requirement and the outstanding debt to a utility provider or the Comprehensive Housing Division eligibility requirement in an effort to address the community hardships brought on by the COVID-19 pandemic.

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

Date: January 15, 2021

Analysis by the Legislative Reference Office

The Landlord-Tenant law (“the Law”) confers administrative rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission to establish rules which create programs for elder tribal members, low-income Oneida tribal members and families, and tribal members in general and provide specific requirements for those programs. [6 O.C. 611.4-1]. The Law provides that where such rental requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority. [6 O.C. 611.3-1(g)]. Accordingly, the Comprehensive Housing Division has sole rulemaking authority for Landlord-Tenant Law Rule No. 2 - Income Based Rental Program Eligibility, Selection and Other Requirements (“the Rule”).

The Rule provides additional eligibility requirements, selection procedures and general requirements that govern the Comprehensive Housing Division’s income-based rental programs. The mission of the income-based housing program is to develop, maintain, and operate affordable housing in safe, sanitary and healthy environments within the reservation.

The Comprehensive Housing Division is seeking emergency amendments to the Rule to temporarily suspend eligibility requirements related to income and debt in response to the COVID-19 pandemic. The emergency amendments to the Rule would temporarily suspend the requirement that an individual meet a minimum household income of seven thousand and eight hundred dollars (\$7,800) per year in recognition of the community hardships brought on by the COVID-19 pandemic. [Rule 2.4-3] Additionally, the requirement that an individual not have a past due balance greater than two hundred dollars (\$200) owed to any utility provider or any prior debt owed to the Comprehensive Housing Division is also temporarily suspended, provided that the health and safety safeguards will continue to require applicants to be eligible to have utilities turned on in their rental units. [Rule 2.4-4].

The Administrative Rulemaking law provides that an authorized agency may present the Legislative Operating Committee with a proposed emergency rule if the following conditions are met:

1. An emergency situation exists that requires the enactment or amendments of a rule for the immediate preservation of the public health, safety, or general welfare of the Reservation population; and
2. The enactment or amendment is required sooner than would be possible under the normal rulemaking procedures.

[1 O.C. 106.10-1].

As a result of the COVID-19 pandemic, in accordance with the authority granted to the Oneida Business Committee through the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until February 11, 2021, through the adoption of the following resolutions: BC-03-26-20-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, BC-12-09-20-D, and BC-01-07-21-A. [3 O.C. 302.8-5].

The emergency amendments to the Rule are necessary for the immediate preservation of the public health, safety, and general welfare of the Reservation population during the COVID-19 pandemic. These amendments are required sooner than would be possible under the normal rulemaking procedures in an effort to meet the needs of the community during the COVID-19 pandemic. In e-mail correspondence to the Legislative Reference Office, the Comprehensive Housing Division provided the following justification for the emergency amendment to the Rule: The justification for the emergency basis is to ease community stress in an already stressful time, prevent homelessness which in turn assists in slowing the spread of the virus, and provide for efficient administration of the rental agreement renewal process which eliminated the need for limited term rental agreements based on not meeting minimum income eligibility requirements.

The Comprehensive Housing Division has provided the Legislative Operating Committee with the proposed emergency amendments to the Rule, justification for the emergency promulgation of the Rule, and the summary report, and has therefore met the requirements of the Administrative Rulemaking law. [1 O.C. 106.10-2].

It will now be up to the Legislative Operating Committee to review the proposed emergency amendments to the Rule and either reject the proposed emergency amendments to the Rule on the basis that there is not a valid emergency, or accept that there is a valid basis for an emergency and forward the emergency amendments to the Rule to the Oneida Business Committee. [1 O.C. 106.10-3]. If the Legislative Operating Committee determines that an emergency basis exists, then the Oneida Business Committee shall be responsible for reviewing the proposed emergency amendments to the Rule and either rejecting the proposed emergency amendments to the Rule on the basis that there is not a valid emergency, or adopting the emergency amendments to the Rule. [1 O.C. 106.10-4].

Emergency adoption or amendment to a rule typically becomes effective immediately upon its adoption by the Oneida Business Committee and would remain in effect for a period of up to six months. [1 O.C. 106.10-5]. The summary report provided by the Comprehensive Housing Division requests that the emergency amendments to the Rule do not go into effect until January 27, 2021.

Conclusion

Adoption of the emergency amendments to Landlord-Tenant Rule No.2 – Income Based Rental Program Eligibility, Selection and Other Requirement would not conflict with any of the Nation's laws.

January 2021

January 2021						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2021						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Dec 27	28	29	30	31	Jan 1, 21 8:00am Holiday Off - New Year's Day	2
3	4	5	6 10:00am LOC Work Session (Microsoft) 1:30pm Wellness Court Law Work Meeting	7	8	9
10	11	12	13 4:00pm Public Comment Period: Community Support Fund Law	14	15	16
17	18	19	20 8:30am LOC Prep (BC Conf Roo 9:00am LOC Meeting 1:30pm Wellness Court Law	21	22	23
24	25	26	27	28	29	30
31	Feb 1	2	3	4	5	6