



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center

February 3, 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. January 20, 2021 LOC Meeting Minutes (pg. 2)

### **III. Current Business**

1. Community Support Fund Law Amendments (pg. 4)
2. Emergency Management and Homeland Security Law Amendments (pg. 41)
3. Oneida General Welfare Law Emergency Amendments (pg. 79)

### **IV. New Submissions**

1. Audit Committee Bylaws Amendments (pg. 99)

### **V. Additions**

### **VI. Administrative Updates**

### **VII. Executive Session**

### **VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
January 20, 2021  
9:00 a.m.

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

**Others Present:** Clorissa N. Santiago, Kristen Hooker, Aliskwet Ellis, Rhiannon Metoxen, Kristal Hill

**I. Call to Order and Approval of the Agenda**

David Jordan called the January 20, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda; seconded by Daniel Guzman King. Motion carried unanimously.

**II. Minutes to be Approved**

**1. December 16, 2020 LOC Meeting Minutes**

Motion by Kirby Metoxen to approve the December 16, 2020 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

**III. Current Business**

**1. Community Support Fund Law Amendments**

Motion by Jennifer Webster to accept the public comments and public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

**2. Emergency Management and Homeland Security Law Amendments**

Motion by Jennifer Webster to accept the public comments and public comment review memorandum and defer to a work meeting for further consideration; seconded by Kirby Metoxen. Motion carried unanimously.

**3. Oneida Nation Emergency Planning Committee Bylaws Amendments**

Motion by Jennifer Webster to accept the Oneida Nation Emergency Planning Committee bylaws amendments and legislative analysis and forward to the Oneida Business Committee for consideration with all of the requested changes from Kaylynn Gresham being added except as follows: (1) that the area representative membership qualification section be revised to only allow one area representative to be exempt from the requirement that they be a member of the Oneida Nation; and (2) that the residential restriction set forth in the qualification section of the bylaws be deleted in its entirety; seconded by Kirby Metoxen. Motion carried unanimously.

**IV. New Submissions**



**V. Additions**

**VI. Administrative Items**

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

Motion by Jennifer Webster to certify the emergency amendment to Landlord-Tenant Law Rule No. 2 and forward to the Oneida Business Committee for consideration.; seconded by Marie Summers. Motion carried unanimously.

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn at 9:30 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee  
February 3, 2021

# Community Support Fund Law Amendments

<b>Submission Date:</b> 10/7/20	<b>Public Meeting:</b> 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.
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> 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.

**1/20/21 LOC:** Motion by Jennifer Webster to accept the public comments and public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

**1/20/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the written comments that were received during the public comment period.

#### **Next Steps:**

- Accept the updated public comment review memorandum, draft law and legislative analysis.
- Approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by February 17, 2021.



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*  
DATE: February 3, 2021  
RE: Community Support Fund Law Amendments: Public Comment Review with LOC Consideration

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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.

On January 20, 2020, the Legislative Operating Committee reviewed and considered all public comments that were received. This memorandum is submitted as the Legislative Operating Committee’s review and consideration of the written comments received within the public comment period.

### 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>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>Include a definition for Fund Operator, which is the Economic Support Services Department, or other <del>area</del> 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></li> </ul>

#### *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*

The Legislative Operating Committee determined that the definition for Fund Operator should be revised to replace the term “area” with “department” to avoid any unnecessary confusion. The Legislative Operating Committee directed that the following revision be made to the law:

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.



**Title 1. Government and Finances – Chapter 125****Kayaʔtakenhásla tsiʔ 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~~department 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.*

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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-\_\_-\_\_-\_\_-\_\_



**Title 1. Government and Finances – Chapter 125****Kayaʔtakenhásla tsiʔ 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 department 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.*

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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-\_\_-\_\_-\_\_-\_\_



**Title 1. Government and Finances – Chapter 125****COMMUNITY SUPPORT FUND****Kayaʔtakenhásla tsiʔ niyukwana táya***It is helpful where our community lays*~~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. Appeal~~**COMMUNITY SUPPORT FUND**125.1. Purpose and Policy125.2. Adoption, Amendment, Repeal125.3. Definitions125.4. Responsibilities, Eligibility and Qualifications125.5. Priorities for Consideration125.6. Items Covered by the Fund125.7. Items not Covered by the Fund125.8. Application Requirements125.9. 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 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.

~~(o) “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
- (g) Death in immediate family ~~as identified in section 125.6-1(n).~~

125.4-~~67~~. 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-~~78~~. Except as otherwise provided in section 125.6-4, all payments shall be provided directly to the service provider.

125.4-~~89~~. Assistance available under the Fund is subject to change according to fiscal year funding levels.

125.4-~~910~~. 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.~~

~~(e)~~(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~~ 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-~~4801~~-08-97-G

Amended - BC-12-11-13-D

Amended - BC-01-11-17-B

Amended - BC- - - -





## AMENDMENTS TO THE COMMUNITY SUPPORT FUND LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>▪ Include a definition for Fund Operator, which is the Economic Support Services Department, or other department within the Governmental Services Division designated authority over the operation of the Fund;</li> <li>▪ Revise the definition of “immediate family” to better reflect Oneida families;</li> <li>▪ Include public health emergency as a catastrophic event, catastrophic illness or injury, or emergency event that qualifies an applicant for assistance from the Fund;</li> <li>▪ 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;</li> <li>▪ Remove the requirement that security deposit assistance only be available to those members of the Nation who are Wisconsin residents;</li> <li>▪ 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;</li> <li>▪ 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;</li> <li>▪ 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;</li> <li>▪ 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;</li> <li>▪ Remove the requirement that an applicant provide all household income the last thirty (30) business days immediately prior to the submission of the application;</li> <li>▪ Expand the time period for an applicant to submit an application from thirty (30) days to forty-five (45) days; and</li> <li>▪ Adjust the appeal process to reflect reorganization of the Governmental Services Division.</li> </ul>
<b>Purpose</b>	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>
<b>Affected Entities</b>	Economic Support Services Department
<b>Public Meeting</b>	A public comment period was held open until January 13, 2021. A public meeting was not 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> ”
<b>Fiscal Impact</b>	On February 3, 2021, the Legislative Operating Committee will be requesting that a fiscal impact statement be completed by the Finance Department.

## 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.
  - On December 16, 2020, the LOC approved the public comment period packet and forwarded the proposed amendments to the Law to a public comment period to be held open until January 13, 2021.
  - The public comment period was held open until the close of business on January 13, 2021. One (1) submission of written comments was received.
- 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.
  - January 20, 2021: 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 February 11, 2021, 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, BC-12-09-20-D, and BC-01-07-21-A.
  - ***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 was 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.*** 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*

256 *Act,”* provides further clarification on who the Legislative Operating Committee may direct complete  
257 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
258 completing the fiscal impact statement.

- 259     ▪ *Conclusion.* On February 3, 2021, the LOC will be directing that a fiscal impact statement of the  
260       proposed amendments to the Law be completed by the Finance Department.



TO: Cristina Danforth, Treasurer  
Lawrence E. Barton, Chief Financial Officer  
FROM: David P. Jordan, Legislative Operating Committee Chairman  
DATE: February 3, 2021  
RE: Community Support Fund Law Amendments Fiscal Impact Statement



The Legislative Operating Committee (LOC) is currently developing amendments to the Community Support Fund law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [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 the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On February 3, 2021, the Legislative Operating Committee approved the final draft of the proposed amendments to the Community Support Fund law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Community Support Fund law by February 17, 2021.

A copy of the proposed amendments to the Community Support Fund law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

**Requested Action**

Provide the LOC a fiscal impact statement of the proposed amendments to the Community Support Fund law by February 17, 2021.



Legislative Operating Committee  
February 3, 2021

# Emergency Management and Homeland Security Law Amendments

<b>Submission Date:</b> 3/17/20	<b>Public Meeting:</b> 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.
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> 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.

**1/20/21 LOC:** Motion by Jennifer Webster to accept the public comments and public comment review memorandum and defer to a work meeting for further consideration; seconded by Daniel Guzman King. Motion carried unanimously.

**1/20/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the written comments that were received during the public comment period.

#### **Next Steps:**

- Accept the updated public comment review memorandum and legislative analysis.
- Approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by February 17, 2021.





TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*  
DATE: February 3, 2021  
RE: Emergency Management and Homeland Security Law Amendments: Public  
Comment Review with LOC Consideration

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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.

On January 20, 2020, the Legislative Operating Committee reviewed and considered all public comments that were received. This memorandum is submitted as the Legislative Operating Committee’s review and consideration of the written comments received within the public comment period.

**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 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

**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, so there is no uncertainty drafted into the proposed amendments of the Law.

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***

The Legislative Operating Committee determined that the proposed amendments to the Law should remain as currently drafted so that section 302.7-6(a) provides that when a public health emergency is proclaimed, the Community/Public Health Officer may ***organize*** the vaccination of individuals instead of allowing the Community/Public Health Officer to ***order*** the vaccination of an individual.

Although the Legislative Operating Committee understands the concerns and requests of the commenters, the Legislative Operating Committee determined that the right of an individual to choose whether to receive a vaccination outweighs the potential need for the Community/Public Health Officer to have the authority to order an individual to obtain a vaccination. Members of the Legislative Operating Committee provided that they have been talking about this issue to various members of the community, and the community has echoed the concerns regarding the authority of a Community/Public Health Officer to order vaccinations. The Legislative Operating

Committee reiterated that they were uncomfortable with providing one person - the Community/Public Health Officer - the authority to order the vaccination of an individual. The Legislative Operating Committee determined that as a sovereign Nation we have the ability to ensure legislation reflects the Oneida community, and that in this situation the Law should reflect the community's desire to ensure that it is the individual who has the ability to determine if and when he or she receives a vaccination, and not the Community/Public Health Officer.

**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  
302.2. Adoption, Amendment, Conflicts  
302.3. Definitions  
302.4. Emergency Management ~~Homeland Security Department~~  
302.5. Oneida Nation Emergency Planning Committee ~~(ONEPC)~~  
302.6. ~~Tribal~~Entity Cooperation

302.7. Public Health Emergencies ~~and Communicable Disease~~  
302.8. ~~When~~Proclamation of an Emergency ~~is Proclaimed~~  
302.9. ~~Emergency~~Enforcement and Penalties  
~~302.10. COVID-19~~ Core Decision Making Team  
~~302.10. Enforcement and Penalties~~

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

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

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

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

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

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

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

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

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

302.7-7. Expenses for law.

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

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

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

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

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

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

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

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

(A) ~~an individual to receive a vaccination, unless who~~ the vaccination is reasonably likely to lead to serious harm to the individual ~~or the;~~ and  
(B) an individual, for reason of religion or conscience, refuses to obtain the vaccination.

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

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

### 302.8. When an Emergency is Proclaimed

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

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

### 302.8. Proclamation of an Emergency

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

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

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

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

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

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

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

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

302.8-5. During

### ~~302.9. Enforcement and Penalties~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **302.10. Enforcement and Penalties**

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



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

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

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

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

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

End.

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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.*

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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-\_\_-\_\_-\_\_-\_\_



# AMENDMENTS TO THE EMERGENCY MANAGEMENT AND HOMELAND SECURITY LAW LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>Amend title from Emergency Management and Homeland Security law to the Emergency Management law;</li> <li>Revise references to Oneida Community Health Services to Comprehensive Health Division;</li> <li>Include a definition for “emergency;”</li> <li>Revise the title of the Emergency Management and Homeland Security Agency to Emergency Management Department;</li> <li>Remove a provision regarding the Public Safety Officers’ Benefits Program from the law because it is provided for in federal law;</li> <li>Clarify that the Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer;</li> <li>Clarify that it is within the authority of the Community/Public Health Officer to issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation;</li> <li>Remove provision that required the Oneida Community Health Services to be responsible for certain expenses of an infected individual;</li> <li>Address the authority of the Community/Public Health Officer to organize the vaccinations of individuals during the Public Health Emergency;</li> <li>Clarify exemptions to the requirements for vaccines;</li> <li>Extend the time period for a proclamation of an emergency from thirty (30) days to sixty (60) days;</li> <li>Clarify that the Conservation Department may contract with an agency to cover their responsibility for the care, disposal, and sheltering of all abandoned domestic animals and livestock during a proclaimed emergency;</li> <li>Delegate authority to the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the declaration of an emergency and determine which positions of the Nation will compose the Emergency Core Decision Making Team;</li> <li>Delegate authority to the Emergency Core Decision Making Team to declare exceptions to any law, policy, procedure, regulation, or standard operating procedure of the Nation;</li> <li>Provide how the Emergency Core Decision Making Team will make declarations, and the duration of authority for those declarations;</li> <li>Require that notification of any declaration be provided to the Oneida Business Committee within twenty-four (24) hours of a declaration being made;</li> <li>Clarify the authority of the Oneida Business Committee to modify, extend, or repeal any declaration or emergency action taken by the Emergency Core Decision Making Team;</li> </ul>

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

## SECTION 2. LEGISLATIVE DEVELOPMENT

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

## SECTION 3. CONSULTATION AND OUTREACH

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

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

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

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

## **SECTION 4. PROCESS**

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

- On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Law through the adoption of resolution BC-03-17-20-E for the purpose of creating and delegating authority to a COVID-19 Core Decision Making Team.
- On August 26, 2020, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-08-26-20-A.
- The LOC added amendments to the Law to its Active Files List on October 7, 2020.
- The emergency amendments to the Law are set to expire on March 17, 2021.
- On December 16, 2020, the LOC approved a draft and legislative analysis for the proposed amendments to the Law.
- On December 16, 2020, the LOC approved the public comment period packet and forwarded the proposed amendments to the Law to a public comment period to be held open until January 13, 2021.
- The public comment period was held open until the close of business on January 13, 2021. Three (3) submissions of written comments were received.

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

- November 4, 2020: LOC work meeting with Comprehensive Health Division, Emergency Management Department, Oneida Law Office, Oneida Business Committee, Risk Management Department, General Manager, Intergovernmental Affairs, Strategic Planner.
- December 8, 2020: LOC work meeting with Comprehensive Health Division, Emergency Management Department, Strategic Planner.
- December 10, 2020: LOC work meeting.
- January 20, 2021: LOC work meeting.

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



for the proposed amendments to this Law will not be held due to the COVID-19 pandemic, but the submission of written comments will still be permitted.

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

▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

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

▪ *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 was not held for the proposed amendments to the Emergency Management and Homeland Security law, a public comment period was still 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. Three (3) submissions of written comments were received during the public comment period.

## SECTION 5. CONTENTS OF THE LEGISLATION

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

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

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

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

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

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

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

- *Effect.* The proposed amendments to the Law remove the financial liability of the cost of care for an infected individual from the Oneida Community Health Services due to the fact that the Nation is not in a financial position to cover these expenses on such a widespread scale as the COVID-19 pandemic has presented. The Law provides that expenses for necessary medical care, food, and

other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's care and support. The Comprehensive Health Division will still provide care and have resources available for those who are eligible to receive care and assistance from the Comprehensive Health Division.

**E. *Vaccinations During a Public Health Emergency.*** The proposed amendments to the Law adjust the Community/Public Health Officer's authority in regard to vaccinations during a public health emergency. The Law provides that when a public health emergency is proclaimed, the Community/Public Health Officer may organize the vaccination of individuals. [3 O.C. 302.7-6(a)]. The Law then clarifies that the following types of individuals shall not be subject to a vaccination: an individual who the vaccination is reasonably likely to lead to serious harm to the individual; or an individual, for reason of religion or conscience, refuses to obtain the vaccination. [3 O.C. 302.7-6(a)(1)(A)-(B)]. Previously, the Law provided that the Community/Public Health Officer had the authority to order the vaccination of an individual, unless the vaccination is reasonably likely to lead to serious harm to the individual or the individual, for reason of religion or conscience, refuses to obtain the vaccination.

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

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

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

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

- *Effect.* The proposed amendment to the Law clarifies that the Domestic Animals law still remains in effect during a proclaimed emergency, but that it is simply the responsibility of the Conservation Department to maintain the care, disposal, and sheltering of all abandoned domestic animals and

livestock. Additionally, the proposed amendment clarifies that the Conservation Department can delegate this responsibility to another agency, such as a Humane Society, through a contract.

**G. *Emergency Core Decision Making Team.*** The proposed amendments to the Law allow the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the proclamation of an emergency under this Law. [3 O.C. 302.9-1]. The Oneida Business Committee is responsible for establishing the Team through the adoption of a motion, and through that motion identifying the positions of the Nation which shall make up the members of the Emergency Core Decision Making Team based on the type and severity of emergency the Nation is experiencing. [3 O.C. 302.9-1]. Previously, the emergency amendments to the Law adopted in March 2020 provided that a COVID-19 Core Decision Making Team would be created by the declaration of a public health emergency under this Law, and would consist of the following persons: Oneida Business Committee Officers which includes the Chairperson, Vice Chairperson, Treasurer, Secretary; Legislative Operating Committee Chairperson; General Manager; Gaming General Manager; Gaming Assistant Chief Financial Officer; Chief Financial Officer; Intergovernmental Affairs and Communications Director; and Public Relations Director.

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

**B. *Delegation of Authority to the Emergency Core Decision Making Team.*** The proposed amendments provide what authority the Emergency Core Decision Making Team is delegated. [3 O.C. 302.9-2]. The Emergency Core Decision Making Team shall have authority to declare exceptions to the Nation's laws during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the community, members of the Nation, and employees of the Nation. [3 O.C. 302.9-2(a)]. The Emergency Core Decision Making Team is also delegated the authority to make these exceptions to the Nation's laws notwithstanding the requirements of the Legislative Procedures Act. This means that the Emergency Core Decision Making team does not have to follow the requirements of the Legislative Procedures Act. The Emergency Core Decision Making Team is also delegated authority to declare an exception to any policy, procedure, regulation, or standard operating procedure of the Nation during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-2(b)]. The Emergency Core Decision Making Team is delegated the authority to make these exceptions to the Nation's policies, procedures, regulations, or standard operating procedures notwithstanding any requirements of the policies, procedures, regulations, or standard operating procedures. The authority delegated to the Emergency Core Decision

247 Making Team through the proposed amendments is the same authority which was delegated to the  
248 COVID-19 Core Decision Making Team through the emergency amendments.

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

256 **C. Declaration of an Exception.** The proposed amendments outline the requirements for making a  
257 declaration and the duration of authority for declarations. [3 O.C. 302.9-3, 302.9-4]. Any declaration  
258 made by the Emergency Core Decision Making Team must be written on the Nation's letterhead,  
259 provide the date the declaration was issued, contain a clear statement of the directives, provide the date  
260 the directive shall go into effect, be signed by the Oneida Business Committee Chairperson or Vice  
261 Chairperson in the Chairperson's absence, and be posted on the Nation's website. [3 O.C. 302.9-3(a)-  
262 (f)]. Declarations and actions taken by the Emergency Core Decision Making Team shall be effective  
263 upon the date declared by the Emergency Core Decision Making Team, and shall remain in effect for  
264 the duration of any declared emergency, or for a shorter time period if identified. [3 O.C. 302.9-4]. The  
265 requirements of a declaration and duration of a declaration provided through the proposed amendments  
266 is the same as the requirements of a declaration and duration of a declaration provided by the COVID-  
267 19 Core Decision Making Team through the emergency amendments.

- 268 ■ *Effect.* The proposed amendments provide more information on how the Emergency Core Decision  
269 Making Team will make declarations of an exception to a law, policy, procedure, regulation, or  
270 standard operating procedure of the Nation, and for how long that declaration will remain in effect.

271 **D. Notification to and Review by the Oneida Business Committee.** The proposed amendments to the  
272 Law provide that within twenty-four (24) hours of a declaration being made, the Emergency Core  
273 Decision Making Team shall provide notification of the declaration to the Oneida Business Committee.  
274 [3 O.C. 302.9-5]. The Law also provides that the Oneida Business Committee may modify, extend, or  
275 repeal any declaration or emergency action taken by the Emergency Core Decision Making Team. [3  
276 O.C. 302.9-6].

- 277 ■ *Effect.* The proposed amendments to the Law ensure that the Oneida Business Committee is always  
278 informed of any declarations that are made by the Emergency Core Decision Making Team, and  
279 clarify that the Oneida Business Committee ultimately has the final authority to modify, extend, or  
280 repeal any declaration made by the Emergency Core Decision Making Team.

281 **E. Citations.** The proposed amendments to the Law reorganize the enforcement and penalties provisions  
282 to clarify that an Oneida Police Department Officer may issue a citation to any person who violates a  
283 provision of this Law. [3 O.C. 302.10-2]. The citation for a violation of this law shall be processed in  
284 accordance with the procedure contained in the Nation's Citations law. [3 O.C. 302.10-2(a)]. The  
285 Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific  
286 fine amounts for violations of this Law. [3 O.C. 302.10-2(b)]. Previously, the Law stated that violators  
287 of this Law may be subject to a fine of not more than two hundred dollars (\$200) per violation to be  
288 issued by the Oneida Police Department and paid to the Nation, and that all fines assessed under this  
289 section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal  
290 with the Judiciary before the fine is to be paid.

- *Effect.* The proposed amendment to the Law updates the language and process regarding citations for violations of this Law in order to conform with the Nation’s Citations law.

**F. *Minor Drafting Changes.*** Minor drafting and formatting changes have been made throughout the Law for clarity including the following:

- The title of the Law was changed from “Emergency Management and Homeland Security” to “Emergency Management;”
- References to the “Emergency Management and Homeland Security Agency” were changed to the Emergency Management Department;” and
- References to the “Oneida Community Health Services” was changed to the “Comprehensive Health Division.”

## **SECTION 6. EXISTING LEGISLATION**

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

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

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

- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
  - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the

public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

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

## SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- A. **Enforcement.** The Oneida Police Department is delegated enforcement authority under this Law.
- The Oneida Police Department shall take enforcement action when necessary and work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine, isolation, or other restrictions on communicable disease are violated or intent to violate becomes apparent. [3 O.C. 302.7-7].
  - An officer of the Oneida Police Department may issue a citation to any person who violates a provision of this Law. [3 O.C. 302.10-2].
- B. **Citation Schedule Resolution.** The Oneida Business Committee is delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 302.10-2(b)].

## SECTION 8. OTHER CONSIDERATIONS

- A. **Deadline for Permanent Adoption of Amendments.** The emergency amendments to the Law, as adopted by the Oneida Business Committee through BC-03-17-20-E, and extended through BC-08-26-20-A, will expire on March 17, 2021.
- *Conclusion:* The Legislative Operating Committee will need to complete the development and adoption of permanent amendments to this Law prior to March 17, 2021.
- B. **Citation Schedule.** This Law provides that the Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 302.10-2(b)]. A citation schedule will need to be developed and adopted. On March 19, 2020, the Nation's COVID-19 Core Decision Making Team issued a declaration titled, "Emergency Management and Homeland Security Law Fine and Penalty Schedule" which set forth a fine schedule for violations of the Law. This declaration can be used in the development of a citations schedule.
- *Conclusion.* The Legislative Operating Committee should plan to develop and bring a proposed citation schedule resolution to the Oneida Business Committee for consideration at the time these amendments are up for adoption.
- C. **Fiscal Impact.** 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.* On February 3, 2021, the LOC will be directing that a fiscal impact statement of the proposed amendments to the Law be completed by the Finance Department.





TO: Cristina Danforth, Treasurer  
Lawrence E. Barton, Chief Financial Officer  
FROM: David P. Jordan, Legislative Operating Committee Chairman  
DATE: February 3, 2021  
RE: Emergency Management and Homeland Security Law Amendments Fiscal Impact Statement

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The Legislative Operating Committee (LOC) is currently developing amendments to the Emergency Management and Homeland Security law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [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 the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On February 3, 2021, the Legislative Operating Committee approved the final draft of the proposed amendments to the Emergency Management and Homeland Security law. Therefore, the LOC is

directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Emergency Management and Homeland Security law by February 17, 2021.

A copy of the proposed amendments to the Emergency Management and Homeland Security law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

**Requested Action**

Provide the LOC a fiscal impact statement of the proposed amendments to the Emergency Management and Homeland Security law by February 17, 2021.



Legislative Operating Committee  
February 3, 2021

# Oneida General Welfare Law Emergency Amendments

<b>Submission Date:</b> 12/18/18	<b>Public Meeting:</b> N/A
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> 8/12/20

**Summary:** *This item was carried over from last term. The Oneida Business Committee directed IGAC, Self-Governance and the Law Office to develop a plan of action to create rules for exempting income per the Tribal General Welfare Exclusion Act. At the December 18, 2018 Business Committee Work Meeting, the Oneida Business Committee requested that the General Welfare Exclusions Act – Income Exemptions item be sent over to the LOC for consideration to develop a law/code/ordinance that would define the income exemptions under the General Welfare Exclusion Act. As a result of the COVID-19 pandemic, emergency adoption of a Oneida General Welfare law was sought to create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of this Law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. The Oneida Business Committee adopted the Oneida General Welfare law on an emergency basis through the adoption of resolution BC-08-12-20-D. The emergency adoption of the Law will expire on February 12, 2021.*

**10/7/20 LOC:** Motion by Kirby Metoxen to add the Oneida General Welfare Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.


**1/14/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Lawrence Barton, Rae Skenandore, Carl Artman, Susan House, Kristal Hill, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the Oneida General Welfare law, the Oneida Higher Education Pandemic Relief Fund law, the Pandemic Relief Assistance law, and the FY21 Budget Directive found in resolution BC-11-24-20-F and determine a plan for meeting these directives and addressing these items on a permanent basis.

**1/28/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the proposed emergency amendments to the Law and emergency adoption packet materials.

## Next Steps:

- Approve the Oneida General Welfare law emergency adoption packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson   
DATE: February 10, 2021  
RE: Emergency Amendments to the Oneida General Welfare Law

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Please find the following attached backup documentation for your consideration of the emergency amendments to the Oneida General Welfare law:

1. Resolution: Emergency Amendments to the Oneida General Welfare Law
2. Statement of Effect: Emergency Amendments to the Oneida General Welfare Law
3. Oneida General Welfare Law Emergency Amendments Legislative Analysis
4. Oneida General Welfare Law (Redline)
5. Oneida General Welfare Law (Clean)

### *Overview*

The Oneida General Welfare law (the “Law”) was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. The emergency adoption of this Law is set to expire on February 12, 2021.

When discussing the potential six (6) month extension of the emergency adoption of this Law the Legislative Operating Committee determined it was necessary to seek an emergency amendment to the Law to better address how an approved program is adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency amendment to the Law revises the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Currently, an approved program can only be adopted by the Oneida Business Committee through a law of the Nation.

In response to the outbreak of the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “Declaration of Public Health State of Emergency” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and provided the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency has since been extended by the Oneida Business



Committee until February 11, 2021, 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, BC-12-09-20-D, and BC-01-07-21-A.

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

The emergency amendment to this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency amendment to this Law will assist in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law.

Additionally, observance of the requirements under the Legislative Procedures Act for the amendments to this Law would be contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be amended to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

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

### **Requested Action**

Approve the Resolution: Emergency Amendments to the Oneida General Welfare Law

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Emergency Amendments to the Oneida General Welfare Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 2 recognized by the laws of the United States of America; and
- 3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 8
- 9 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
- 10 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for
- 11 the Nation until April 12, 2020, and set into place the necessary authority for action to be
- 12 taken and allows the Nation to seek reimbursement of emergency management actions
- 13 that may result in unexpected expenses; and
- 14
- 15 **WHEREAS,** the Nation's Public Health State of Emergency has since been extended by the Oneida
- 16 Business Committee until February 11, 2021, through the adoption of resolutions BC-03-
- 17 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-
- 18 A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, and BC-01-07-21-A; and
- 19
- 20 **WHEREAS,** the Oneida Business Committee and COVID-19 Core Decision Making Team, after being
- 21 impacted by the COVID-19 pandemic, adopted resolutions and declarations that were
- 22 intended to protect the health and safety of members, residents of the Reservation and
- 23 employees; and
- 24
- 25 **WHEREAS,** the Oneida General Welfare law ("the Law") was adopted by the Oneida Business
- 26 Committee on an emergency basis through resolution BC-08-12-20-D in an effort to
- 27 provide a mechanism to address the economic needs of members of the Nation during the
- 28 COVID-19 pandemic; and
- 29
- 30 **WHEREAS,** the purpose of the Law is to provide assistance, on a non-taxable basis, to Tribal members
- 31 through approved programs that promote the general welfare of the Nation; and
- 32
- 33 **WHEREAS,** the Law sets a framework and provides guidelines for the Nation to establish and operate
- 34 approved programs which provide assistance to eligible Tribal members to promote the
- 35 general welfare of the Nation, including programs designed to enhance the promotion of
- 36 health, education, self-sufficiency, self-determination, and the maintenance of culture and
- 37 tradition, entrepreneurship, and employment; and
- 38
- 39 **WHEREAS,** an emergency amendment to the Law is now being sought to allow the Oneida Business
- 40 Committee the ability to adopt an approved program through resolution in addition to
- 41 through a law of the Nation in an effort to allow for more flexibility and efficiency in
- 42 addressing the needs of the Nation; and
- 43

44 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to amend  
45 legislation on an emergency basis when the legislation is necessary for the immediate  
46 preservation of the public health, safety, or general welfare of the Reservation population,  
47 and the amendment of the legislation is required sooner than would be possible under the  
48 Legislative Procedures Act; and  
49

50 **WHEREAS,** the emergency amendment to this Law is necessary for the preservation of the general  
51 welfare of the Reservation population because it allows for the economic needs of the  
52 Reservation population to be more efficiently addressed during the public health crisis that  
53 is the COVID-19 pandemic by providing the Nation more flexibility in establishing and  
54 operating approved programs that may provide assistance to Tribal members on a non-  
55 taxable basis; and  
56

57 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this  
58 Law would be contrary to public interest since the Nation is currently experiencing the vast  
59 effects of the COVID-19 pandemic, and the process and requirements of the Legislative  
60 Procedures Act cannot be completed in time to ensure that the Law can be amended to  
61 best assist members of the Nation during the pandemic; and  
62

63 **WHEREAS,** emergency adoption of legislation is effective for a period of six (6) months, renewable by  
64 the Oneida Business Committee for an additional six (6) month term; and  
65

66 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement  
67 when considering emergency legislation; and  
68

69 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the emergency  
70 amendments to the Oneida General Welfare law effective immediately.



## **Statement of Effect**

### *Emergency Amendments to the Oneida General Welfare Law*

#### **Summary**

This resolution adopts emergency amendments to the Oneida General Welfare law in order to allow an approved program to be adopted by the Oneida Business Committee through resolution in addition to through adoption of a law of the Nation.

*Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office*  
*Date: January 28, 2021*

#### **Analysis by the Legislative Reference Office**

This resolution adopts emergency amendments to the Oneida General Welfare law (“the Law”). The Law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. Emergency amendments to the Law are being sought to better address how an approved program is adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency amendment to the Law revises the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or a law of the Nation. [10 O.C. 1001.3-1(a)]. Currently, an approved program can only be adopted by the Oneida Business Committee through a law of the Nation.

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

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



the Oneida Business Committee until February 11, 2021, 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, BC-12-09-20-D, and BC-01-07-21-A.

The resolution provides that the emergency amendment to this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency amendment to this Law will assist in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this amendment would be contrary to public interest. The Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be amended to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

The emergency amendments to this the Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments to the Law will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendments for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

### ***Conclusion***

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



## EMERGENCY AMENDMENTS TO THE ONEIDA GENERAL WELFARE LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Law</b>	Allow approved programs to be adopted by the Oneida Business Committee through resolution in addition to by a law of the Nation. [1 O.C. 1001.3-1(a)].
<b>Purpose</b>	Provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3].
<b>Affected Entities</b>	Oneida Business Committee, Entities developing approved programs
<b>Public Meeting</b>	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
<b>Fiscal Impact</b>	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
<b>Expiration of Emergency Legislation</b>	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

### SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** On August 12, 2020, the Oneida General Welfare law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. Emergency adoption of the Oneida General Welfare law was pursued to provide a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The Law set forth a framework and provided guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. The emergency adoption of the Oneida General Welfare law is set to expire on February 12, 2021.
- B. Emergency Amendments.** Originally, the Legislative Operating Committee planned to seek a six (6) month extension of the emergency adoption of the Law which occurred through resolution BC-08-12-20-D. The Legislative Operating Committee is now seeking an emergency amendment to the Law to address the manner in which approved programs are adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency.
- C. COVID-19 Pandemic.** The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses.
- *Declaration of a Public Health State of Emergency.*

- 24       ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*  
25       *of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency  
26       for the Nation until April 12, 2020, and set into place the necessary authority should action  
27       need to be taken and allowed the Nation to seek reimbursement of emergency management  
28       actions that may result in unexpected expenses.
- 29       ▪ The Public Health State of Emergency has since been extended until February 11, 2021,  
30       by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A,  
31       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,  
32       BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, and BC-01-07-21-A.
- 33       ▪ *COVID-19 Core Decision Making Team.*
- 34       ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to  
35       the Emergency Management and Homeland Security law to create and delegate authority  
36       to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10].
  - 37       ▪ When a public health emergency has been declared, the COVID-19 Team has the  
38       authority to declare exceptions to the Nation’s laws, policies, procedures,  
39       regulations, or standard operating procedures during the emergency period which  
40       will be of immediate impact for the purposes of protecting the health, safety, and  
41       general welfare of the Nation’s community, members, and employees. [3 O.C.  
42       302.10-2].
  - 43       ▪ These declarations remain in effect for the duration of the Public Health State of  
44       Emergency. [3 O.C. 302.10-3].
- 45       ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
- 46       ▪ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*  
47       *at Home*” declaration which ordered all individuals present within the Oneida Reservation  
48       to stay at home or at their place of residence, with certain exceptions allowed. This  
49       declaration prohibited all public gatherings of any number of people.
- 50       ▪ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*  
51       *at Home*” declaration which allowed for gaming and golf operations to resume.
- 52       ▪ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*  
53       *Declaration, Amendment, Open for Business*” which directs that individuals within the  
54       Oneida Reservation should continue to stay at home, businesses can re-open under certain  
55       safer business practices, and social distancing should be practiced by all persons.
- 56       ▪ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*  
57       *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*  
58       *Amendment, Open for Business*” while still providing guidance and some restrictions. This  
59       declaration prohibits all public and private gatherings of more than twenty (20) people that  
60       are not part of a single household or living unit.
- 61       ▪ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”  
62       which sets minimum standards for the safe re-opening of a building or recall of employees  
63       to work.
- 64       ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*  
65       *Legislative Procedures Act.*
- 66       ▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a  
67       “*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.

### SECTION 3. CONSULTATION AND OUTREACH

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

- Oneida Law Office;
- Finance Administration; and
- Governmental Services Division.

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

- Legislative Procedures Act.

### SECTION 4. PROCESS

B. The amendments to this Law are being considered on an emergency basis. The Oneida Business Committee may temporarily amend a law when “legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law.” [1 O.C. 109.9-5].

- Emergency amendments to this Law are being pursued for the preservation of the general welfare of the Reservation population. The emergency amendments to this Law will assist in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law.
- Observance of the requirements under the Legislative Procedures Act for the amendments to this Law would be contrary to public interest. The Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be amended to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

C. Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].

D. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.

D. The following work meetings were held regarding the development of this Law and legislative analysis:

- January 14, 2021: LOC work meeting with the Oneida Law Office, Finance Department, Strategic Planner, and Governmental Services Division.
- January 28, 2021: LOC work meeting.

## SECTION 5. CONTENTS OF THE LEGISLATION

**A. Definition of Approved Program.** The proposed emergency amendment to the Law revises the definition for “approved program.” [10 O.C. 1001.3-1(a)]. The emergency amendment to the Law provides that an approved program means any program(s) to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Previously, the Law provided that an approved program means any program(s) to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted as a law by resolution of the Oneida Business Committee. Approved programs are established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. Each approved program is required to set forth the specific eligibility rules and limitations that will be applied to that program. [10 O.C. 1001.9-3]. Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Oneida Business Committee for approval. *Id.*

- **Effect.** The emergency amendments to the Law allow for an approved program to be adopted by the Oneida Business Committee by resolution in addition to through the adoption of a law of the Nation. This revision provides more flexibility and efficiency for how an approved program may be adopted. An approved program that intends to function on a permanent basis would be best suited to be adopted through a law of the Nation – whether that be through emergency legislation or through the regular legislative process. An approved program that is needed quickly to best address the needs of the community and will only be in place for a limited term may be more efficiently adopted through a resolution of the Nation.

## SECTION 6. EXISTING LEGISLATION

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

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

a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].

- Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
- Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
- Emergency amendments to this Law would conform with the requirements of the Legislative Procedures Act.

## SECTION 7. OTHER CONSIDERATIONS

**A. *Deadline for Permanent Adoption of Legislation.*** The emergency amendments to this Law will expire six (6) months after adoption. The emergency legislation may be renewed for an additional six (6) month period.

- *Conclusion:* The Legislative Operating Committee will need to consider the development and adoption of this Law on a permanent basis within the next six (6) to twelve (12) months.

**B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1].

**Title 10. General Welfare Exclusion - Chapter 1001**  
**ONEIDA GENERAL WELFARE**

1001.1. Purpose and Policy  
1001.2. Adoption, Amendment, Repeal  
1001.3. Definitions  
1001.4. Ratification of Prior Acts  
1001.5. General Welfare Doctrine and IRS Revenue Procedure  
2014-53/ Tribal General Welfare Exclusion of 2014

1001.6. Non-Recourse Designation  
1001.7. Governing Law; Sovereignty  
1001.8. Federal Trust Obligations  
1001.9. Approved Program Guidelines

**1001.1. Purpose and Policy**

1001.1-1. *Purpose.* The purpose of this law is to provide assistance to eligible Tribal members. The Nation affirms hereby its sovereign right to do so on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits to Tribal members.

1001.1-2. The federal government through the Tribal General Welfare Exclusion Act of 2014, codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the general welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal governments to provide financial assistance to its Tribal members under certain circumstances on a non-taxable basis.

1001.1-3. *Policy.* It is the policy of the Nation to provide assistance to Tribal members through approved programs that promote the general welfare of the Nation. This law provides a framework for approved programs to follow to ensure compliance with the General Welfare Exclusion, 26 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures including I.R.S. Rev. Proc. 2014-35. Further, it is the intent of the Oneida Business Committee that all assistance provided under this law:

- (a) is available to any recipients who satisfy the program policies, subject to budgetary restraints;
- (b) is made under an approved program that does not discriminate in favor of members of the Nation's governing body;
- (c) is not provided as compensation for goods and/or services; and
- (d) is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.

**1001.2. Adoption, Amendment, Repeal**

1001.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by resolution BC-08-12-20-D~~7~~, and emergency amended by resolution BC- - - - -.

1001.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1001.2-3. 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.

1001.2-4. 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.

1001.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**1001.3. Definitions**

1001.3-1. 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) "Approved program" means any program(s) to provide general welfare assistance that

is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted ~~as a law~~ by ~~resolution of~~ the Oneida Business Committee through resolution or law of the Nation.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law, provided, that such assistance shall be owed back to the Nation from the Tribal member recipient in the event the Tribal member misappropriates the assistance.

(c) "Benefits" means any approved program assistance, including payments, which is provided pursuant to this law.

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

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

(e) "General Welfare Exclusion" means any benefits shall be treated as non-taxable under federal law so long as it satisfies the requirements for exclusion under 26 U.S.C. §139E, is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations, or it meets the General Test.

(f) "General welfare need" means a need, in the sole discretion of the Oneida Business Committee, which shall be met to ensure the Nation's longevity as a self-governing Indian nation, and includes needs in the areas of health, education, self-sufficiency, self-determination, the maintenance of culture and tradition, entrepreneurship, and employment.

(g) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.

(h) "Nation" means the Oneida Nation.

(i) "Recipient" means any Tribal member entitled to receive assistance in accordance with approved program requirements.

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

#### **1001.4. Ratification of Prior Acts**

1001.4-1. This law is not to be construed as creating new general welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by the Nation to administer its general welfare assistance.



1001.4-2. Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

#### **1001.5. General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General Welfare Exclusion of 2014**

1001.5-1. The federal government recognizes that benefits to recipients under an approved program for the promotion of the general welfare of the Nation is excludable from the gross income of those recipients.

1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and detailed examples of Safe Harbor programs under which, if approved and in writing, need would be presumed, and benefits would be excluded from gross income.

1001.5-3. Benefits authorized by this law are intended to qualify non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

1001.5-4. Assistance authorized by this law shall be limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed.

1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue Service.

1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:

- (a) Benefits that satisfy the requirements for the exemption under 26 U.S.C. §139E;
- (b) Benefits that are provided under an IRS Safe Harbor Program listed and described in I.R.S. Rev. Proc. 2014-35; or
- (c) Benefits that qualify for exclusion under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

#### **1001.6. Non-Recourse Designation**

1001.6-1. The Nation does not guarantee benefits under this law. Benefits shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. The approved programs shall be administered at all times to avoid triggering of the doctrines of “constructive receipt” and/or “economic benefit.”

#### **1001.7. Governing Law; Sovereignty**

1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance made hereunder, shall be construed and enforced according to the Nation’s laws and applicable federal law. Nothing in this law or the related laws, policies, or procedures adopted for its implementation, if any, shall be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status.

**1001.8. Federal Trust Obligations**

1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation's adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Nation's right to seek funding shortfalls or to enforce the trust rights of the Nation and its citizens. The Nation shall be entitled to government-to-government consultation and coordination with the federal government in regard to these obligations.

**1001.9. Approved Program Guidelines**

1001.9-1. *Nation Approved Programs.* The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this law. Each approved program shall be consistent with the principles of the General Welfare Exclusion as to purpose, eligibility, and funding.

1001.9-2. *Purpose of Approved Programs.* Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion. An approved program shall be established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

1001.9-3. *Eligibility.* Assistance intended to qualify under the General Welfare Exclusion shall be limited to Tribal members. Each approved program shall set forth the specific eligibility rules and limitations applied to that program. Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Oneida Business Committee for approval in accordance with this law. Programs shall be approved by the Oneida Business Committee to be considered in force and effect and in accordance with this law.

1001.9-4. *Limited Use of Assistance Payments.* All assistance shall be used for the purpose stated in the approved program description. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program the payment shall be deemed forfeited. The Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration from other payments made to recipient to secure repayment of assistance under this law.

1001.9-5. *Anti-Alienation.* A Tribal member's benefit is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal member.

*End.*

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Emergency Adopted - BC-08-12-20-D

Emergency Amended – BC- - - -

**Title 10. General Welfare Exclusion - Chapter 1001**  
**ONEIDA GENERAL WELFARE**

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*End.*

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Emergency Adopted - BC-08-12-20-D  
Emergency Amended – BC-\_\_-\_\_-\_\_-\_\_



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: 1/22/2021
- 2) Contact Person(s): Loucinda Conway  
 Dept: Internal Audit  
 Phone Number: 920-869-4330 Email: lconway@oneidanation.org
- 3) Agenda Title: Audit Committee Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

- 1) Audit Committee Bylaws redline
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

- 5) Please list any laws, policies or resolutions that might be affected:  
None
- 6) Please list all other departments or person(s) you have brought your concern to:  
Audit Committee members
- 7) Do you consider this request urgent? ☐ Yes ☒ No  
 If yes, please indicate why:  
 \_\_\_\_\_

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

Signature of Requester:  
Rebecca Schommer

Digitally signed by Rebecca Schommer  
 Date: 2021.01.22 14:12:53 -06'00'

*Please send this form and all supporting materials to:*

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



## AUDIT COMMITTEE BYLAWS

### Article I. Authority

- 1-1. *Name.* The name of this committee shall be the Audit Committee, hereinafter referred to as "Committee."
- 1-2. *Authority.* By the authority of the Oneida Business Committee, the Committee was created by adoption of the Audit Law Resolution BC-07-15-98-C which has been updated to Internal Audit BC 08 09 17 B. Through ~~the Internal Audit BC 08 09 17 B Law~~, the Committee has been delegated the authority to ensure the integrity of the Tribe's Oneida Nation's financial reporting and audit systems. Definitions for the words used throughout these bylaws shall be taken from ~~the Internal Audit BC 08 09 17 B Law~~. All words not defined in ~~the Internal Audit BC 08 09 17 B Law~~ shall be used in their ordinary and everyday sense.
- 1-3. *Office.* The office of the Committee shall be located within the exterior boundaries of the Oneida Reservation and its mailing address shall be P.O. Box 365, Oneida, WI 54155.
- 1-4. *Membership.*
  - a. Number of members. The Committee shall consist of five (5) members.
  - b. How elected or appointed.
    1. Four (4) Committee members shall be Oneida Business Committee members, excluding the Treasurer, selected by a majority of the Oneida Business Committee.
      - A. Any member of the Business Committee, with the exception of the Treasurer, may serve as Ad Hoc when needed.
    2. One (1) Committee member shall be a member of the community who meets the qualifications of 1-4(d). ~~This member shall be appointed in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions.~~
  - c. How vacancies are filled. Vacancies on the Committee shall be filled in accordance with section 1-4(b) for the remainder of the outstanding term.
  - d. Qualifications of members.
    1. The appointed Committee member shall be at least twenty-one (21) years of age and be an enrolled member of the Oneida Nation ~~Tribe of Indians of Wisconsin~~.
    2. Committee members shall be both independent and financially literate or have access to financial expertise, whether in the form of the Chief Financial Officer, a single individual serving on the Committee, or collectively among Committee members. Components of financial expertise include:
      - A. The ability to assess the general application of the principles and standards in connection with the accounting for estimates, accruals, and reserves.
      - B. An understanding of internal controls.
      - C. An understanding of the procedures for financial reporting.
      - D. An understanding of Audit Committee functions and responsibilities.
  - e. Term of office.
    1. The terms of the Audit Committee members shall coincide with the term of the Oneida Business Committee.
    2. The term of the appointed community member shall expire midway through the term of the Oneida Business Committee.
    3. Defining independence of each Committee member is important for the Tribe Nation and no Committee member may:
      - A. Be employed by any Tribal entity.
      - B. Provide contract services to the Tribe Nation.

- C. Be a member of any other Tribal Board, Committee or Commission, other than the Oneida Business Committee.
  - D. Represent any interests other than the ~~Tribe's~~ Oneida Nation's while acting as a member of the Committee.
4. Committee members shall strictly adhere to the ~~Tribe's~~ Oneida Nation's laws and policies, ~~establishing~~ ethical standards and/or conflicts of interest, and any code of conduct. All work shall be performed in accordance with the International Professional Practices Framework. Failure to do so may result in the removal from the Committee or termination of an appointment.

## Article II. Officers

- 2-1. The Committee shall have two (2) officers: Chairperson and Vice-Chairperson. The terms of office for the officers shall coincide with the terms of the Oneida Business Committee members.
- 2-2. *Chairperson Duties.* The Chairperson shall preside over all meetings and may not vote except in the case of a tie. The Chairperson shall be responsible for calling meetings and notifying members with the assistance of the Internal Audit Department.
- 2-3. *Vice-Chairperson Duties.* The Vice-Chairperson shall assist the Chairperson with his or her duties, at the request of the Chairperson, and shall preside over all meetings in the Chairperson's absence.
- 2-4. *How Officers are Chosen.* The Chairperson and Vice-Chairperson shall be chosen from the Oneida Business Committee representatives by all Committee members present at the first meeting held after the Committee is appointed.
- 2-5. *Personnel.* The Committee shall recruit and hire a qualified Internal Audit Manager to lead the internal audit function and to assure unbiased audit and investigative processes and reporting.

## Article III. Meetings

- 3-1. All meetings of the Audit Committee are to be closed session as required by the International Professional Practices Framework with the exceptions below.
- 3-2. The Committee shall meet on a monthly basis within the Reservation boundaries.
  - a. All Committee members are expected to attend each meeting.
  - b. The Committee may invite entity representatives, auditors or others to attend meetings and provide ~~per~~ relevant information.
  - c. The Committee may hold meetings in executive session with auditors, legal counsel, and entity representatives as invited.
- 3-3. *Emergency and Special Meetings.* Emergency or special meetings of the Committee may be called by the Chairperson or upon written request of any two (2) members. The Chairperson shall designate a time and place for holding an emergency or special meeting.
- 3-4. Virtual Meetings. Virtual meetings are allowed in accordance with Audit Committee Virtual meetings SOP.
- ~~3-4.5.~~ *Notice of Emergency or Special Meeting.* Notice of an emergency or special meeting shall be:
  - a. *Members.* The Committee shall provide notice to members at least ~~for~~ forty-eight (48) hours prior to the date set for any such meeting, unless, for good cause, such notice is impossible or impractical. —Notice may be communicated in person, or through electronic communication.
  - ~~b. *Public.* The Committee shall provide public notice of special meetings by submitting the~~ [RJS1] date, time and location of the special meeting to the Intergovernmental Affairs and Communications Department to be included on the community calendar on the Tribe's website no later than twenty four (24) hours prior to the time of the special

~~meeting.~~

3-~~5~~6. *Quorum.* A quorum shall consist of a majority of current members of the Committee and shall include the Chairperson or Vice-Chairperson.

3-~~7~~6. *Order of Business.* The regular meetings of the Committee shall follow the order of business as set out herein:

~~a.~~I. Call to Order.

~~b.~~II. Approval of Agenda

~~c.~~III. Approval of Minutes

~~d.~~IV. Old Business

V. New Business

~~e.~~VI. Tabled Business

~~f.~~VII. Executive Session

~~g.~~VIII. Adjourn

3-~~7~~8. *Voting.* Decisions of the Committee shall be based on a majority of a quorum of members present at a meeting. The officer presiding at a meeting shall vote only in case of a tie.

a. Electronic e-polls are allowed as long as they are conducted in accordance with Conducting Electronic Voting (E-Polls) SOP.

3-~~8~~9. *Stipends.* The appointed Committee member shall be paid a meeting stipend of \$75.00 per any meeting ~~in accordance with Section 11-3 of the Comprehensive Policy Governing Boards, Committees and Commissions,~~ provided that the meeting has established a quorum ~~for a minimum of one (1) hour and the Committee member collecting the stipend was present for at least one (1) hour of the established quorum.~~

#### **Article IV. Reporting**

4-1. Agenda items shall be in an identified format.

4-2. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the Committee.

4-3. Handouts, reports, memoranda and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.

4-4. The Committee shall report to the Oneida Business Committee and to the General Tribal Council, when appropriate, relative to audits, financial reports, management reports and recommended corrective measures.

4-5. The Committee shall report to the Oneida Business Committee, as often as deemed appropriate, the approved Committee minutes, audit reports and appropriate supporting information.

a. Minutes and audit reports require Oneida Business Committee acceptance in order to finalize the audit records.

#### **Article V. Amendments**

5-1. The Bylaws of the Committee shall be amended with the approval of a quorum of the Committee and upon subsequent approval by the Oneida Business Committee.

#### **Article VI. Responsibilities**

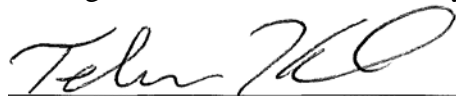
6-1. The Committee shall have oversight of the activities of the internal audit function in independent assignments related to auditing, evaluating, and special investigations related to detecting fraudulent financial reporting and conducting investigations into fraud and theft in the Tribe's Oneida Nation's entities. The Committee shall perform all work in accordance with the International Professional Practices Framework.

- 6-2. *Enforcement.* The Committee shall have the ability to utilize all existing enforcement authorities to carry out their responsibilities to achieve their purpose, including:
- Request the Business Committee to compel entity representatives to attend meetings in order to represent issues.
  - Request the Business Committee to compel entity representatives to comply with audit requests and reply to audit reports.
  - Instruct the external auditor and the internal auditor that the Committee expects to be advised if there are any areas that require its special attention.
  - Request the Business Committee to issue notices of noncompliance to entity employees in accordance with the disciplinary provisions relating to work performance and personal actions, as provided for in the ~~Tribe's~~ Oneida Nation's Personnel Policies and Procedures.
  - Request the Business Committee to issue notices of violation of Oath of Office, as appropriate, to entity members.
  - Seek improvements to assure the ~~Tribe's~~ Oneida Nation's laws and policies establishing ethical standards and/or conflicts of interest, as well as any code of conduct implemented are current and adequate to ensure fairness for all and equity by protecting the resources.
- 6-3. *Financial Statements.* The Committee shall review and discuss annual statements and Managements Discussion & Analysis (MD&A) with auditors.
- 6-4. *Internal Control.* The Committee shall ensure that entities have developed and follow an adequate system of internal control, including:
- Compliance with legal and regulatory requirements.
  - Risk assessment and risk management.
  - Adopt a code of ethics which includes monitoring and enforcement.
  - Establish procedures for the receipt, retention, and treatment of complaints; establish a confidential anonymous submission by individuals for concerns regarding questionable matters.
  - Ensure open communication and information flow with entities, internal auditors and external auditors.
- 6-5. *External Audit.* The Committee shall be responsible for evaluating and recommending to the Oneida Business Committee, an independent public accounting firm for the annual or any special audit, unless there is a prior alternative written agreement in place delegating the responsibility for a given special audit. When an external auditor is hired, the Committee shall:
- Verify the qualifications of the external auditor.
  - Oversee the performance of the external audit.
  - Assure all reports from the external auditor go directly to the Committee.
- 6-6. *Compliance.* The Committee shall review the effectiveness of the system for monitoring compliance with laws and regulations and the results of an entity's investigation and follow-up of any instances of non-compliance. Special audits and/or investigations may be recommended by the Audit Committee.
- 6-7. *Other Responsibilities.* The Committee shall complete a self-evaluation annually to identify improvement opportunities. This includes comparing the Committee's performance to its bylaws, any formal guidelines and rules, and against best practices. Such review is confidential and may or may not include evaluations of particular members.

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These Bylaws are hereby attested to as adopted by the Audit Committee at a duly called

meeting held on the 14 of January, 2016 by the Audit Committee Chairperson's signature.



~~Tehassi Hill, Chairperson-  
Audit Committee~~

~~These By Laws are also approved by the Oneida Business Committee at a duly called meeting held on the 27 of January, 2016 by the Secretary of the Oneida Business Committee's signature.~~



~~Lisa Summers, Tribal Secretary Oneida Business Committee~~

# February 2021

February 2021

Su	Mo	Tu	We	Th	Fr	Sa
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28						

March 2021

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 31	Feb 1	2	3 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	4	5 10:00am Wellness Court Law Work Meeting (Microsoft Teams Meeting) - Clorissa N.	6
7	8	9	10	11 2:00pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	12	13
14	15	16	17 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa	18	19	20
21	22	23	24	25 1:30pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	26	27
28	Mar 1	2	3	4	5	6