



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd 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-2nd 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

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

Summary: *On September 2, 20210, the Governmental Services Division Director, on behalf of Economic Support, submitted a request for amendments to be made to the Community Support Fund law to take the requirement for income verification out of the Law, since none of the Community Support Fund Law Rules review income as a basis for program eligibility. The request also identified various potential amendments to the Community Support Fund Law Rule Handbook.*

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

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

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

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

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

12/2/20: *Work Meeting.* Present: Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to answer any questions the LOC may have had regarding the proposed amendments and legislative analysis since the drafting attorney was unable to attend the LOC meeting due to quarantine.

12/16/20 LOC: Motion by Daniel Guzman King to approve the Community Support Fund law amendments public comment period packet and forward the Community Support Fund law amendments to a public comment period to be held open until January 13, 2021; seconded by Kirby Metoxen. Motion carried unanimously.

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

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 *CMS*
DATE: February 3, 2021
RE: Community Support Fund Law Amendments: Public Comment Review with LOC Consideration

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

Analysis by the Legislative Reference Office	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> Include a definition for Fund Operator, which is the Economic Support Services Department, or other area within the Governmental Services Division designated authority over the operation of the Fund; Change area to department to clarify who is Fund Operator

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·táyá***It is helpful where our community lays***COMMUNITY SUPPORT FUND**

125.1. Purpose and Policy

125.2. Adoption, Amendment, Repeal

125.3. Definitions

125.4. Responsibilities, Eligibility and Qualifications

125.5. Priorities for Consideration

125.6. Items Covered by the Fund

125.7. Items not Covered by the Fund

125.8. Application Requirements

125.9. Decision and Appeal

1 125.1. Purpose and Policy

2 125.1-1. *Purpose.* The purpose of this law is to assist the greatest number of members of the
3 Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness
4 or injury, or emergency event when no other resources for assistance exist.

5 125.1-2. *Policy.* It is the policy of the Nation to assist its people in a time of need after a
6 catastrophic event, catastrophic illness or injury, or emergency event, when there is no other
7 assistance available or all other assistance has been exhausted.

8 9 125.2. Adoption, Amendment, Repeal

10 125.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-15-96-
11 A and amended by resolutions BC-01-08-97-G, BC-12-11-13-D, BC-01-11-17-B and BC-__-__-
12 __-__.

13 125.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
14 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
15 Act.

16 125.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.

19 125.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.

21 125.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

22 23 125.3. Definitions

24 125.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.

26 (a) “Applicant” means the subject of the application for assistance.

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

29 (c) “Case manager” means an employee within the Fund Operator responsible for
30 administering Fund benefits.

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

34 (e) “Catastrophic illness or injury” means a serious debilitating illness, injury, impairment,
35 or physical or mental condition that involves:

36 (1) In-patient care;

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

- 39 therapy resulting from trauma;
- 40 (3) A period of illness or injury that is long-term due to a condition for which
- 41 treatment may be ineffective, including, but not limited to, stroke or terminal
- 42 disease; or
- 43 (4) Multiple treatments either for restorative surgery after an accident or other
- 44 injury, or for a chronic condition, including, but not limited to, cancer or kidney
- 45 disease.
- 46 (f) “Emergency event” means a situation that poses an immediate risk to health, life,
- 47 safety, property, or environment. Emergencies require urgent intervention to prevent
- 48 further illness, injury, death, or other worsening of the situation.
- 49 (g) “Emergency medical travel” means an unexpected serious health situation or
- 50 occurrence, requiring the immediate presence of immediate family, including, but not
- 51 limited to, end of life situation or life support.
- 52 (h) “Fund” means the Community Support Fund.
- 53 (i) “Fund Operator” means the Economic Support Services Department, or other
- 54 ~~area~~department within the Governmental Services Division designated authority over the
- 55 operation of the Fund.
- 56 (j) “Immediate family” means an applicant’s husband, wife, mother, father, son, daughter,
- 57 brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and any of
- 58 these relations attained through marriage or legal adoption, as well as a person who has
- 59 legal responsibility for the applicant, or a person the applicant has legal responsibility of.
- 60 (k) “Legal guardian” means a person who has the legal authority to care for the personal
- 61 and property interests of another person granted through Court order.
- 62 (l) “Legal responsibility” means specific duties imposed upon a person to care or provide
- 63 for another including liability for personal obligations as granted through a Power of
- 64 Attorney or Court order.
- 65 (m) “Major medical surgery” means a surgical procedure that carries a degree of risk to the
- 66 patient’s life, or the potential for severe disability if something goes wrong during surgery.
- 67 It is a surgical procedure that usually requires a patient to be put under general anesthesia
- 68 and given respiratory assistance because he or she cannot breathe independently.
- 69 (n) “Nation” means the Oneida Nation.
- 70 (o) “Public health emergency” means the occurrence or imminent threat of an illness or
- 71 health condition which:
- 72 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a
- 73 biological agent; and
- 74 (2) poses a high probability of any of the following:
- 75 (A) a large number of deaths or serious or long-term disability among
- 76 humans; or
- 77 (B) widespread exposure to a biological, chemical, or radiological agent
- 78 that creates a significant risk of substantial future harm to a large number
- 79 of people.
- 80 (p) “Rule” means a set of requirements enacted in accordance with the Administrative
- 81 Rulemaking law.
- 82 (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
- 83 judicial system that was established by Oneida General Tribal Council resolution GTC-01-
- 84 07-13-B, and then later authorized to administer the judicial authorities and responsibilities

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

86

87 **125.4. Responsibilities, Eligibility and Qualifications**

88 125.4-1. *Responsibilities of the Fund Operator.* The Fund Operator shall have the following
89 responsibilities in regard to the operation of the Fund:

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

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

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

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

100 125.4-2. *Reporting Requirements.* The Governmental Services Division Director shall report
101 quarterly to the Oneida Business Committee. The report shall include, but is not limited to, the
102 amount of funds paid out under each category of the Fund.

103 125.4-3. Eligibility for assistance provided under the Fund is reserved for enrolled members of
104 the Nation. Applications may be made by a non-member on the behalf of an enrolled member of
105 the Nation, provided the requested funds will benefit the member only and the non-member has
106 one (1) of the following relationships to the applicant:

107 (a) Is a parent of the applicant;

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

109 (c) Has legal responsibility for the applicant.

110 125.4-4. Residency within the state of Wisconsin is not a prerequisite for assistance from the
111 Fund.

112 125.4-5. The Fund is a fund of last resort and provides assistance when there is no other financial
113 assistance available or all other assistance has been exhausted. Applicants shall first seek out other
114 resources that can meet the needs of their request. Proof of requesting assistance from other sources
115 shall be provided with the application.

116 125.4-6. The following types of catastrophic events, and catastrophic illnesses or injuries qualify
117 an applicant for assistance:

118 (a) Terminally ill;

119 (b) Physically challenged or incapacitated;

120 (c) Major medical surgery;

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

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

124 (f) Public health emergency; and

125 (g) Death in immediate family.

126 125.4-7. Assistance may be denied or limited for applicants who have elected not to be covered
127 by employer benefits such as disability or health insurance.

128 125.4-8. Except as otherwise provided in section 125.6-4, all payments shall be provided directly
129 to the service provider.

130 125.4-9. Assistance available under the Fund is subject to change according to fiscal year funding

131 levels.

132 125.4-10. Oneida programs and enterprises are not eligible for these funds.

133

134 **125.5. Priorities for Consideration**

135 125.5-1. The case manager shall determine the level of assistance to be provided based on:

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

137 (b) Cost, usual and customary fees;

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

140 (d) The Fund's appropriate promulgated rules.

141 125.5-2. The case manager shall assess each individual case, prioritize, and assist with immediate
142 needs. Priorities are as follows:

143 (a) Life-threatening emergency requests;

144 (b) Emergency medical travel; and

145 (c) Other needs.

146

147 **125.6. Items Covered by the Fund**

148 125.6-1. Requests for assistance from the Fund shall be tied to or be a result of a catastrophic
149 event, catastrophic illness or injury, or emergency event. Upon verification of a catastrophic event,
150 catastrophic illness or injury, or emergency event, the Fund may be used for the following:

151 (a) COBRA Insurance Payments;

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

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

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

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

156 (f) Mortgage payments and rent payments including security deposits, where no other
157 resources exist;

158 (g) Utility disconnections;

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

160 (i) Fire recovery and natural disaster assistance;

161 (j) Home renovations required for handicap accessibility;

162 (k) Family Medical Leave Act wage replacement;

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

165 (m) Appliance repair for essential appliances; and/or

166 (n) Travel expenses to arrange or attend a funeral for immediate family members.

167 125.6-2. *Security Deposit.* The Fund shall only provide assistance for a security deposit when it
168 is tied to or a result of a catastrophic event, catastrophic illness or injury, or emergency event, on
169 an emergency basis which shall include, but is not limited to, pending eviction and homelessness.

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

172 (b) Only one (1) request per household shall be considered.

173 125.6-3. *Utilities.* Assistance for the payment of utilities shall only be allowed once every two
174 (2) years by the person listed as responsible to pay with the utility company. An applicant shall
175 demonstrate that he or she applied to his or her local Energy Assistance Program before applying
176 for assistance from the Fund.

177 125.6-4. *Funeral Travel Expenses*. An applicant may receive assistance with travel expenses, up
178 to a maximum amount of five hundred dollars (\$500), to arrange or attend a funeral for immediate
179 family members. Unless the rules allow for direct payment to the travel provider by the Fund
180 Operator, such assistance is required to be in the form of reimbursement, provided that mileage
181 assistance shall always be in the form of reimbursement.
182

183 **125.7. Items not Covered by the Fund**

184 125.7-1. The Fund shall not be used to cover payments that are not for a catastrophic event,
185 catastrophic illness or injury, or emergency event as defined above. The following is a list of items
186 not covered by the Fund; however, this is not an exhaustive list:

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

202 125.7-2. Benefits may be denied or limited if evidence is found regarding the applicant as to the
203 following:

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

210 125.7-3. When a decision is made to approve, deny, or limit benefits, the case manager shall
211 provide an explanation of the decision in writing to the applicant with a copy placed in the
212 applicant's file.
213

214 **125.8. Application Requirements**

215 125.8-1. To be considered for assistance and before receiving assistance the applicant shall
216 complete the full application process. All applicants shall cooperate with the case manager to
217 assist the case manager in comprehensively addressing the needs of the applicant(s). Every
218 application shall contain a space for the applicant to identify a preferred method of contact. This
219 shall be the primary contact method. Case managers shall follow up every contact with written
220 correspondence, in order to make responses to the applicant in a timely manner so as to meet the
221 applicant's needs.

222 125.8-2. Supporting documentation is required in all cases. The applicant is responsible to

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

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

233 125.8-3. Documentation includes, but is not limited to:

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

244 125.8-4. Requests submitted without supporting documentation shall be kept on file for thirty
245 (30) business days.

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

258 125.8-5. Applications for assistance shall be made within a reasonable time period, not to exceed
259 forty-five (45) business days of a catastrophic event, catastrophic illness or injury, or emergency
260 event. Applications made after forty-five (45) business days shall not be considered.

261

262 **125.9. Decision and Appeal**

263 125.9-1. *Initial Decision.* The Fund Operator shall include in the Fund rules a timeline for which
 264 an initial decision is required following the submission of a complete application. Such timeline
 265 shall include available extensions for circumstances wherein the applicant has a determination of
 266 award or coverage pending with another support or assistance resource.

267 125.9-2. *Appeal to the Director of the Fund Operator.* An appeal of the case manager's decision
 268 shall be requested in writing to the director of the Fund Operator within ten (10) business days
 269 after receipt of notice of the initial decision. The director of the Fund Operator shall provide the
 270 applicant with notice of his or her decision on the matter within ten (10) business days after
 271 receiving the appeal.

272 125.9-3. *Appeal to the Governmental Services Division Director.* An appeal of the decision of
 273 the director of the Fund Operator shall be requested in writing to the Governmental Services
 274 Division Director within ten (10) business days after receipt of notice of the director of the Fund
 275 Operator's decision. The Governmental Services Division Director shall provide the applicant
 276 with notice of his or her decision on the matter within ten (10) business days after receiving the
 277 appeal.

278 125.9-4. *Oneida Judiciary Appeal.* An applicant may appeal a decision of the Governmental
 279 Services Division Director by filing a complaint with the Trial Court.

280
 281 *End.*

Adopted - BC-05-15-96-A

Amended - BC-01-08-97-G

Amended - BC-12-11-13-D

Amended - BC-01-11-17-B

Amended - BC-__-__-__-__

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

1 125.1. Purpose and Policy

2 125.1-1. *Purpose.* The purpose of this law is to assist the greatest number of members of the
3 Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness
4 or injury, or emergency event when no other resources for assistance exist.

5 125.1-2. *Policy.* It is the policy of the Nation to assist its people in a time of need after a
6 catastrophic event, catastrophic illness or injury, or emergency event, when there is no other
7 assistance available or all other assistance has been exhausted.

8 9 125.2. Adoption, Amendment, Repeal

10 125.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-15-96-
11 A and amended by resolutions BC-01-08-97-G, BC-12-11-13-D, BC-01-11-17-B and BC-__-__-
12 __-__.

13 125.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
14 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
15 Act.

16 125.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.

19 125.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.

21 125.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22

23 125.3. Definitions

24 125.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.

26 (a) “Applicant” means the subject of the application for assistance.

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

29 (c) “Case manager” means an employee within the Fund Operator responsible for
30 administering Fund benefits.

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

34 (e) “Catastrophic illness or injury” means a serious debilitating illness, injury, impairment,
35 or physical or mental condition that involves:

36 (1) In-patient care;

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

- 39 therapy resulting from trauma;
- 40 (3) A period of illness or injury that is long-term due to a condition for which
- 41 treatment may be ineffective, including, but not limited to, stroke or terminal
- 42 disease; or
- 43 (4) Multiple treatments either for restorative surgery after an accident or other
- 44 injury, or for a chronic condition, including, but not limited to, cancer or kidney
- 45 disease.
- 46 (f) “Emergency event” means a situation that poses an immediate risk to health, life,
- 47 safety, property, or environment. Emergencies require urgent intervention to prevent
- 48 further illness, injury, death, or other worsening of the situation.
- 49 (g) “Emergency medical travel” means an unexpected serious health situation or
- 50 occurrence, requiring the immediate presence of immediate family, including, but not
- 51 limited to, end of life situation or life support.
- 52 (h) “Fund” means the Community Support Fund.
- 53 (i) “Fund Operator” means the Economic Support Services Department, or other
- 54 department within the Governmental Services Division designated authority over the
- 55 operation of the Fund.
- 56 (j) “Immediate family” means an applicant’s husband, wife, mother, father, son, daughter,
- 57 brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, cousin, and any of
- 58 these relations attained through marriage or legal adoption, as well as a person who has
- 59 legal responsibility for the applicant, or a person the applicant has legal responsibility of.
- 60 (k) “Legal guardian” means a person who has the legal authority to care for the personal
- 61 and property interests of another person granted through Court order.
- 62 (l) “Legal responsibility” means specific duties imposed upon a person to care or provide
- 63 for another including liability for personal obligations as granted through a Power of
- 64 Attorney or Court order.
- 65 (m) “Major medical surgery” means a surgical procedure that carries a degree of risk to the
- 66 patient’s life, or the potential for severe disability if something goes wrong during surgery.
- 67 It is a surgical procedure that usually requires a patient to be put under general anesthesia
- 68 and given respiratory assistance because he or she cannot breathe independently.
- 69 (n) “Nation” means the Oneida Nation.
- 70 (o) “Public health emergency” means the occurrence or imminent threat of an illness or
- 71 health condition which:
- 72 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a
- 73 biological agent; and
- 74 (2) poses a high probability of any of the following:
- 75 (A) a large number of deaths or serious or long-term disability among
- 76 humans; or
- 77 (B) widespread exposure to a biological, chemical, or radiological agent
- 78 that creates a significant risk of substantial future harm to a large number
- 79 of people.
- 80 (p) “Rule” means a set of requirements enacted in accordance with the Administrative
- 81 Rulemaking law.
- 82 (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
- 83 judicial system that was established by Oneida General Tribal Council resolution GTC-01-
- 84 07-13-B, and then later authorized to administer the judicial authorities and responsibilities

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

86
87 **125.4. Responsibilities, Eligibility and Qualifications**

88 125.4-1. *Responsibilities of the Fund Operator.* The Fund Operator shall have the following
89 responsibilities in regard to the operation of the Fund:

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

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

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

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

100 125.4-2. *Reporting Requirements.* The Governmental Services Division Director shall report
101 quarterly to the Oneida Business Committee. The report shall include, but is not limited to, the
102 amount of funds paid out under each category of the Fund.

103 125.4-3. Eligibility for assistance provided under the Fund is reserved for enrolled members of
104 the Nation. Applications may be made by a non-member on the behalf of an enrolled member of
105 the Nation, provided the requested funds will benefit the member only and the non-member has
106 one (1) of the following relationships to the applicant:

107 (a) Is a parent of the applicant;

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

109 (c) Has legal responsibility for the applicant.

110 125.4-4. Residency within the state of Wisconsin is not a prerequisite for assistance from the
111 Fund.

112 125.4-5. The Fund is a fund of last resort and provides assistance when there is no other financial
113 assistance available or all other assistance has been exhausted. Applicants shall first seek out other
114 resources that can meet the needs of their request. Proof of requesting assistance from other sources
115 shall be provided with the application.

116 125.4-6. The following types of catastrophic events, and catastrophic illnesses or injuries qualify
117 an applicant for assistance:

118 (a) Terminally ill;

119 (b) Physically challenged or incapacitated;

120 (c) Major medical surgery;

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

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

124 (f) Public health emergency; and

125 (g) Death in immediate family.

126 125.4-7. Assistance may be denied or limited for applicants who have elected not to be covered
127 by employer benefits such as disability or health insurance.

128 125.4-8. Except as otherwise provided in section 125.6-4, all payments shall be provided directly
129 to the service provider.

130 125.4-9. Assistance available under the Fund is subject to change according to fiscal year funding

131 levels.

132 125.4-10. Oneida programs and enterprises are not eligible for these funds.

133

134 **125.5. Priorities for Consideration**

135 125.5-1. The case manager shall determine the level of assistance to be provided based on:

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

137 (b) Cost, usual and customary fees;

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

140 (d) The Fund's appropriate promulgated rules.

141 125.5-2. The case manager shall assess each individual case, prioritize, and assist with immediate
142 needs. Priorities are as follows:

143 (a) Life-threatening emergency requests;

144 (b) Emergency medical travel; and

145 (c) Other needs.

146

147 **125.6. Items Covered by the Fund**

148 125.6-1. Requests for assistance from the Fund shall be tied to or be a result of a catastrophic
149 event, catastrophic illness or injury, or emergency event. Upon verification of a catastrophic event,
150 catastrophic illness or injury, or emergency event, the Fund may be used for the following:

151 (a) COBRA Insurance Payments;

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

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

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

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

156 (f) Mortgage payments and rent payments including security deposits, where no other
157 resources exist;

158 (g) Utility disconnections;

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

160 (i) Fire recovery and natural disaster assistance;

161 (j) Home renovations required for handicap accessibility;

162 (k) Family Medical Leave Act wage replacement;

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

165 (m) Appliance repair for essential appliances; and/or

166 (n) Travel expenses to arrange or attend a funeral for immediate family members.

167 125.6-2. *Security Deposit.* The Fund shall only provide assistance for a security deposit when it
168 is tied to or a result of a catastrophic event, catastrophic illness or injury, or emergency event, on
169 an emergency basis which shall include, but is not limited to, pending eviction and homelessness.

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

172 (b) Only one (1) request per household shall be considered.

173 125.6-3. *Utilities.* Assistance for the payment of utilities shall only be allowed once every two
174 (2) years by the person listed as responsible to pay with the utility company. An applicant shall
175 demonstrate that he or she applied to his or her local Energy Assistance Program before applying
176 for assistance from the Fund.

177 125.6-4. *Funeral Travel Expenses.* An applicant may receive assistance with travel expenses, up
178 to a maximum amount of five hundred dollars (\$500), to arrange or attend a funeral for immediate
179 family members. Unless the rules allow for direct payment to the travel provider by the Fund
180 Operator, such assistance is required to be in the form of reimbursement, provided that mileage
181 assistance shall always be in the form of reimbursement.
182

183 **125.7. Items not Covered by the Fund**

184 125.7-1. The Fund shall not be used to cover payments that are not for a catastrophic event,
185 catastrophic illness or injury, or emergency event as defined above. The following is a list of items
186 not covered by the Fund; however, this is not an exhaustive list:

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

202 125.7-2. Benefits may be denied or limited if evidence is found regarding the applicant as to the
203 following:

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

210 125.7-3. When a decision is made to approve, deny, or limit benefits, the case manager shall
211 provide an explanation of the decision in writing to the applicant with a copy placed in the
212 applicant's file.
213

214 **125.8. Application Requirements**

215 125.8-1. To be considered for assistance and before receiving assistance the applicant shall
216 complete the full application process. All applicants shall cooperate with the case manager to
217 assist the case manager in comprehensively addressing the needs of the applicant(s). Every
218 application shall contain a space for the applicant to identify a preferred method of contact. This
219 shall be the primary contact method. Case managers shall follow up every contact with written
220 correspondence, in order to make responses to the applicant in a timely manner so as to meet the
221 applicant's needs.

222 125.8-2. Supporting documentation is required in all cases. The applicant is responsible to

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

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

233 125.8-3. Documentation includes, but is not limited to:

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

244 125.8-4. Requests submitted without supporting documentation shall be kept on file for thirty
245 (30) business days.

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

258 125.8-5. Applications for assistance shall be made within a reasonable time period, not to exceed
259 forty-five (45) business days of a catastrophic event, catastrophic illness or injury, or emergency
260 event. Applications made after forty-five (45) business days shall not be considered.

261

262 **125.9. Decision and Appeal**

263 125.9-1. *Initial Decision.* The Fund Operator shall include in the Fund rules a timeline for which
264 an initial decision is required following the submission of a complete application. Such timeline
265 shall include available extensions for circumstances wherein the applicant has a determination of
266 award or coverage pending with another support or assistance resource.

267 125.9-2. *Appeal to the Director of the Fund Operator.* An appeal of the case manager’s decision
268 shall be requested in writing to the director of the Fund Operator within ten (10) business days
269 after receipt of notice of the initial decision. The director of the Fund Operator shall provide the
270 applicant with notice of his or her decision on the matter within ten (10) business days after
271 receiving the appeal.

272 125.9-3. *Appeal to the Governmental Services Division Director.* An appeal of the decision of
273 the director of the Fund Operator shall be requested in writing to the Governmental Services
274 Division Director within ten (10) business days after receipt of notice of the director of the Fund
275 Operator’s decision. The Governmental Services Division Director shall provide the applicant
276 with notice of his or her decision on the matter within ten (10) business days after receiving the
277 appeal.

278 125.9-4. *Oneida Judiciary Appeal.* An applicant may appeal a decision of the Governmental
279 Services Division Director by filing a complaint with the Trial Court.

280
281 *End.*

Adopted - BC-05-15-96-A
Amended - BC-01-08-97-G
Amended - BC-12-11-13-D
Amended - BC-01-11-17-B
Amended – BC-__-__-__-__

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 Policy~~~~125.2. Adoption, Amendment, Repeal~~~~125.3. Definitions~~~~125.4. Responsibilities, Eligibility and Qualifications~~~~125.5. Priorities for Consideration~~~~125.6. Items Covered by the Fund~~~~125.7. Items not Covered by the Fund~~~~125.8. Application Requirements~~~~125.9. Decision and Appeal~~**125.1. Purpose and Policy**

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

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

125.2. Adoption, Amendment, Repeal

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

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

125.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

125.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

125.3. Definitions

125.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Applicant” means the subject of the application for assistance.

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

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

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

34 (e) “Catastrophic illness or injury” means a serious debilitating illness, injury, impairment,
35 or physical or mental condition that involves:

36 (1) In-patient care;

37 (2) A period of continuing treatment due to a chronic serious health condition ~~(such~~
38 ~~as, including, but not limited to,~~ chemotherapy, radiation, dialysis, ~~and daily/ or~~
39 ~~weekly therapy resulting from trauma, etc.);~~

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

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

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

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

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

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

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

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

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

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

71 (n) “Nation” means the Oneida Nation.

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

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

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

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

79 (B) widespread exposure to a biological, chemical, or radiological agent

80 that creates a significant risk of substantial future harm to a large number
81 of people.

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

84 ~~(o) “Tribal” means the Oneida Nation.~~

85 -
86 (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
87 judicial system that was established by Oneida General Tribal Council resolution GTC-01-
88 07-13-B, and then later authorized to administer the judicial authorities and responsibilities
89 of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

91 **125.4. Responsibilities, Eligibility and Qualifications**

92 125.4-1. ~~The Social Services Area of the Governmental Services Division shall be responsible~~
93 ~~for operation~~ Responsibilities of the Fund, but may designate Operator. The Fund Operator shall
94 have the following responsibilities in regard to the operation of the Fund ~~to~~;

95 ~~(a department within its control.~~

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

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

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

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

106 125.4-2. Reporting Requirements. The Governmental Services Division Director shall report
107 quarterly to the Oneida Business Committee. The report shall include, but is not limited to, the
108 amount of funds paid out under each category of the Fund.

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

112 125.4-~~23~~. Eligibility for assistance provided under the Fund is reserved for enrolled members of
113 the Nation. Applications may be made by a non-member on the behalf of an enrolled member of
114 the Nation, provided the requested funds will benefit the member only and the non-member has
115 one (1) of the following relationships to the applicant:

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

119 125.4-~~34~~. Residency within the state of Wisconsin is not a prerequisite for assistance, ~~except for~~
120 ~~requests for a security deposit in accordance with section 125.6-2~~ from the Fund.

121 125.4-~~45~~. The Fund is a fund of last resort and provides assistance when there is no other financial
122 assistance available or all other assistance has been exhausted. Applicants shall first seek out other
123 resources that can meet the needs of their request. ~~Proof of requesting assistance from other~~
124 ~~sources shall be provided with the application.~~

125 125.4-~~56~~. The following types of catastrophic events, and catastrophic illnesses or injuries qualify

126 an applicant for assistance:

- 127 (a) Terminally ill;
- 128 (b) Physically challenged or incapacitated;
- 129 (c) Major medical surgery;
- 130 (d) Life threatening ~~(i.e., including, but not limited to,~~ cancer, AIDS, stroke, and disabling
- 131 injuries due to motor vehicle accident~~, etc.);~~;
- 132 (e) ~~—~~ Natural disaster ~~(i.e., including, but not limited to,~~ tornado, fire, flood~~, etc.);~~;
- 133 (f) Public health emergency; and
- 134 (g) Death in immediate family as identified in section 125.6-1(n).

135 125.4-~~67~~. Assistance may be denied or limited for applicants who have elected not to be covered
136 by employer benefits such as disability or health insurance.

137 125.4-~~78~~. Except as otherwise provided in section 125.6-4, all payments shall be provided directly
138 to the service provider.

139 125.4-~~89~~. Assistance available under the Fund is subject to change according to fiscal year funding
140 levels.

141 125.4-~~910~~. Oneida programs and enterprises are not eligible for these funds.

142
143 **125.5. Priorities for Consideration**

144 125.5-1. The case manager shall determine the level of assistance to be provided based on:

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

150 125.5-2. The case manager shall assess each individual case, prioritize, and assist with immediate
151 needs. Priorities are as follows:

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

155
156 **125.6. Items Covered by the Fund**

157 125.6-1. Requests for assistance from the Fund shall be tied to or be a result of a catastrophic
158 event, catastrophic illness, or injury, or emergency event. Upon verification of a catastrophic
159 event, catastrophic illness, or injury, or emergency event, the Fund may be used for the following:

- 160 (a) COBRA Insurance Payments;
- 161 (b) Prescriptions not available through an Indian Health Services clinic;
- 162 (c) Medical transportation ~~/ or~~ emergency medical travel including vehicle repairs;
- 163 (d) Medical-related equipment, supplies, or furniture;
- 164 (e) Medical bills ~~(, including~~ dental, optical, and hospital~~),~~ not covered by insurance;
- 165 (f) Mortgage payments and rent payments ~~(including security deposits);~~ where no other
166 resources exist ~~in accordance with section 125.6-2;~~
- 167 (g) Utility disconnections ~~in accordance with section 125.6-3;~~
- 168 (h) Inpatient Treatment ~~(, with a limit of once per lifetime);~~;
- 169 (i) Fire recovery ~~/ and~~ natural disaster assistance;
- 170 (j) Home renovations required for handicap accessibility;
- 171 (k) Family Medical Leave Act wage replacement;

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

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

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

178 125.6-2. ~~Security deposit~~Deposit. The Fund shall only provide assistance for a security deposit
179 when it is tied to or a result of a catastrophic event, catastrophic illness or injury, or emergency
180 event, on an emergency basis which shall include, but is not limited to, pending eviction and
181 homelessness. ~~Security deposit assistance is limited to Tribal members who are Wisconsin~~
182 ~~residents only.~~

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

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

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

189 125.6-3. *Utilities*. Assistance for the payment of utilities shall only be allowed once every two
190 (2) years by the person listed as responsible to pay with the utility company. ~~An applicant shall~~
191 demonstrate that he or she applied to his or her local Energy Assistance Program before applying
192 for assistance from the Fund.

193 125.6-4. ~~Funeral expenses~~Travel Expenses. An applicant may receive assistance with travel
194 expenses, up to a maximum amount of five hundred dollars (\$500), to arrange or attend a funeral
195 for immediate family members ~~outside the state where the applicant resides.~~ Unless the rules
196 allow for direct payment to the travel provider by the Fund Operator, such assistance is required
197 to be in the form of reimbursement, provided that mileage assistance shall always be in the form
198 of reimbursement.

200 **125.7. Items not Covered by the Fund**

201 125.7-1. The Fund shall not be used to cover payments that are not for a catastrophic event,
202 catastrophic illness, or injury, or emergency event as defined above. The following is a list of items
203 not covered by the Fund; however, this is not an exhaustive list:

204 (a) Car payments;

205 (b) Taxes;

206 (c) Credit card or charge accounts;

207 (d) Commercial loans;

208 (e) Defaults, or fines, or bankruptcy charges;

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

210 (g) Legal fees, or court costs, or judgments;

211 ~~(h) Homeless lodging assistance;~~

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

214 (i) Health membership fees;

215 (j) Food and personal care items;

216 (k) Stabilization rent assistance;

217 (l) Insurance deductibles;

218 (m) Home renovations not related to handicap accessibility; and
219 ~~(n)~~ Department of Corrections re-entry assistance.

220 125.7-2. Benefits may be denied or limited if evidence is found regarding the applicant as to the
221 following:

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

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

231

232 **125.8. Application Requirements**

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

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

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

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

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

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

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

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

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

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

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

278 125.8-5. Applications for assistance shall be made within a reasonable time period, not to exceed
279 ~~thirty (30)~~ forty-five (45) business days of a catastrophic event ~~or, catastrophic illness, or injury~~, or
280 emergency event. Applications made after ~~thirty (30)~~ forty-five (45) business days shall not be
281 considered.

282
283 **125.9. Decision and Appeal**

284 125.9-1. *Initial Decision.* The Fund Operator shall include in the Fund rules a timeline for which
285 an initial decision is required following the submission of a complete application. Such timeline
286 shall include available extensions for circumstances wherein the applicant has a determination of
287 award ~~or~~ coverage pending with another support ~~or~~ assistance resource.

288 125.9-2. ~~Program Appeal to the Director~~ Appeal of the Fund Operator. An appeal of the case
289 manager's decision shall be requested in writing to the ~~Program Director~~ director of the Fund
290 Operator within ten (10) business days after receipt of notice of the initial decision. ~~Within ten~~
291 ~~(10) business days after receiving the appeal, the Program Director~~ The director of the Fund
292 Operator shall provide the applicant with notice of his or her decision on the matter ~~—~~ within ten
293 (10) business days after receiving the appeal.

294 125.9-3. ~~Area Manager Appeal~~ Appeal to the Governmental Services Division Director. An
295 appeal of the ~~Program Director's~~ of the director of the Fund Operator shall be requested
296 in writing to the ~~Area Manager~~ Governmental Services Division Director within ten (10) business
297 days after receipt of notice of the ~~Program Director's~~ director of the Fund Operator's decision.
298 ~~Within ten (10) business days after receiving the appeal, the Area Manager~~ The Governmental
299 Services Division Director shall provide the applicant with notice of his or her decision on the
300 matter ~~—~~ within ten (10) business days after receiving the appeal.

301 125.9-4. *Oneida Judiciary Appeal.* An applicant may appeal a decision of the ~~Area Manager to~~
302 ~~the Oneida Court of Appeals in accordance~~ Governmental Services Division Director by filing a
303 complaint with the ~~Rules of Appellate Procedure~~ Trial Court.

304
305 *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>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Include a definition for Fund Operator, which is the Economic Support Services Department, or other department within the Governmental Services Division designated authority over the operation of the Fund; ▪ Revise the definition of “immediate family” to better reflect Oneida families; ▪ Include public health emergency as a catastrophic event, catastrophic illness or injury, or emergency event that qualifies an applicant for assistance from the Fund; ▪ Clarify that the Fund may only be used for the waiting period for a Social Security Disability Determination rent and utility assistance up to a maximum of twelve (12) months; ▪ Remove the requirement that security deposit assistance only be available to those members of the Nation who are Wisconsin residents; ▪ Remove the requirement that the amount paid for a security deposit be paid back to the Fund before another security deposit is issued in the future; ▪ Clarify that an applicant must clarify that he or she applied to his or her local Emergency Assistance Program prior to applying for utility assistance from the Fund; ▪ Remove the requirement that funeral travel expenses are only provided to arrange or attend a funeral for immediate family members outside the state where the applicant resides; ▪ Clarify that lodging assistance due to homelessness or for any other reason not related to a catastrophic event or emergency event, insurance deductibles, and home renovations not related to handicap accessibility are not covered by the Fund; ▪ Remove the requirement that an applicant provide all household income the last thirty (30) business days immediately prior to the submission of the application; ▪ Expand the time period for an applicant to submit an application from thirty (30) days to forty-five (45) days; and ▪ Adjust the appeal process to reflect reorganization of the Governmental Services Division.
Purpose	To assist the greatest number of members of the Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or injury, or emergency event when no other resources for assistance exist. <i>[1 O.C. 125.1-1].</i>
Affected Entities	Economic Support Services Department
Public Meeting	A public comment period 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> ”
Fiscal Impact	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

- 1
- 2 **A. *Background.*** The Community Support Fund law (“the Law”) was first adopted by the Oneida Business
- 3 Committee on May 15, 1996, for the purpose of assisting the greatest number of members of the Oneida
- 4 Nation who apply for assistance to the Fund in times of a catastrophic event, catastrophic illness or
- 5 injury, or emergency event when no other resources for assistance exist. [1 O.C. 125.1-1].
- 6 **B.** The Law was most recently amended by the Oneida Business Committee on January 11, 2017, through
- 7 the adoption of resolution BC-01-11-17-B.
- 8 **C.** On September 2, 2020, the Governmental Services Division Director, on behalf of the Economic
- 9 Support Services Department, submitted a request for the Legislative Operating Committee to consider
- 10 amendments to the Law in an effort to expand the assistance available under the Fund to members of
- 11 the Nation. The Legislative Operating Committee added the Law to its Active Files List on October 7,
- 12 2020.
- 13

SECTION 3. CONSULTATION AND OUTREACH

- 14 **A.** Representatives from the following departments of the Nation participated in the development of
- 15 amendments to this Law and legislative analysis:
- 16

- 17 ▪ Economic Support Services Department.
- 18 **B.** The following laws were reviewed in the drafting of this analysis:
- 19 ▪ Administrative Rulemaking law; and
- 20 ▪ Rules of Appellate Procedure.
- 21

22 **SECTION 4. PROCESS**

- 23 **A.** The amendments to this Law have followed the process set forth in the Legislative Procedures Act.
- 24 ▪ On September 2, 2020, the Governmental Services Division Director, on behalf of the Economic
- 25 Support Services Department, submitted a request for the Legislative Operating Committee to
- 26 consider amendments to the Law.
- 27 ▪ The LOC added the amendments to the Active Files List on October 7, 2020.
- 28 ▪ A draft and legislative analysis for the Law was accepted by the LOC on December 2, 2020.
- 29 ▪ On December 16, 2020, the LOC approved the public comment period packet and forwarded the
- 30 proposed amendments to the Law to a public comment period to be held open until January 13,
- 31 2021.
- 32 ▪ The public comment period was held open until the close of business on January 13, 2021. One (1)
- 33 submission of written comments was received.
- 34 **B.** At the time this legislative analysis was developed the following work meetings had been held
- 35 regarding the development of these amendments:
- 36 ▪ October 15, 2020: Work meeting with Economic Support Services Department.
- 37 ▪ October 21, 2020: Work meeting with LOC.
- 38 ▪ October 29, 2020: Work meeting with LOC and Economic Support Services Department.
- 39 ▪ December 2, 2020: Work meeting with LOC.
- 40 ▪ January 20, 2021: Work meeting with LOC.
- 41 **C.** *COVID-19 Pandemic's Effect on the Legislative Process.* The world is currently facing a pandemic
- 42 of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China
- 43 and has spread to many other countries throughout the world, including the United States. The COVID-
- 44 19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts
- 45 including effects on the stock market and the closing of all non-essential businesses. A public meeting
- 46 for the proposed amendments to this Law will not be held due to the COVID-19 pandemic, but the
- 47 submission of written comments will still be permitted.
- 48 ▪ *Declaration of a Public Health State of Emergency.*
- 49 ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*
- 50 *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State
- 51 of Emergency for the Nation until April 12, 2020, and set into place the necessary authority
- 52 for action to be taken and allows the Nation to seek reimbursement of emergency
- 53 management actions that may result in unexpected expenses.
- 54 ▪ The Public Health State of Emergency has since been extended until February 11, 2021,
- 55 by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A,
- 56 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-
- 57 10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, and BC-01-07-21-A.
- 58 ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
- 59 ▪ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*
- 60 *at Home*” declaration which ordered all individuals present within the Oneida Reservation

61 to stay at home or at their place of residence, with certain exceptions allowed. This
62 declaration prohibited all public gatherings of any number of people.

- 63 ■ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*
64 *at Home*” declaration which allowed for gaming and golf operations to resume.
- 65 ■ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*
66 *Declaration, Amendment, Open for Business*” which directs that individuals within the
67 Oneida Reservation should continue to stay at home, businesses can re-open under certain
68 safer business practices, and social distancing should be practiced by all persons.
- 69 ■ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*
70 *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*
71 *Amendment, Open for Business*” while still providing guidance and some restrictions. This
72 declaration prohibits all public and private gatherings of more than twenty (20) people that
73 are not part of a single household or living unit.
- 74 ■ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”
75 which sets minimum standards for the safe re-opening of a building or recall of employees
76 to work.
- 77 ■ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
78 *Legislative Procedures Act.*
 - 79 ■ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a
80 “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which
81 suspended the Legislative Procedures Act’s requirement to hold a public meeting during
82 the public comment period, but allows members of the community to still participate in the
83 legislative process by submitting written comments, questions, data, or input on proposed
84 legislation to the Legislative Operating Committee via e-mail during the public comment
85 period.
 - 86 ■ Although a public meeting will not be held on the proposed amendments to the Community
87 Support Fund law, a public comment period was still be held open until January 13, 2021,
88 in accordance with the Legislative Procedures Act and the COVID-19 Core Decision
89 Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*”
90 declaration.

92 SECTION 5. CONTENTS OF THE LEGISLATION

93 A. *Definition for Immediate Family.* The proposed amendments to the Law revise the definition for
94 “immediate family.” The Law now defines “immediate family” as an applicant’s husband, wife,
95 mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew,
96 cousin, and any of these relations attained through marriage or legal adoption, as well as a person who
97 has legal responsibility for the applicant, or a person the applicant has legal responsibility of. [1 O.C.
98 125.3-1(j)]. Previously, “immediate family” was defined as that group of persons who make up a
99 family unit normally defined as husband, wife, children, sister, brother, in-laws, step family,
100 grandparents and grandchildren, and/or a person who has legal responsibility for the applicant. The
101 term “immediate family” is most frequently used in the Law in reference to assistance for funeral travel
102 expenses.

- 103 ■ *Effect.* The proposed amendments expand the definition of immediate family to better reflect
104 familial relationships amongst members of the Nation. The Economic Support Services Department

105 made the recommendation to expand this definition based on requests for assistance that have been
106 submitted, in an effort to better meet the needs of members of the Nation.

107 **B. *Public Health Emergency as a Qualification for Assistance.*** The proposed amendments to the Law
108 now specify that a public health emergency is a type of catastrophic event or catastrophic illness or
109 injury which qualifies an applicant for assistance. [1 O.C. 125.4-6(f)]. The public health emergency
110 qualification is in addition to the following types of catastrophic events, and catastrophic illnesses or
111 injuries that were previously specified in the Law: terminally ill, physically challenged or incapacitated,
112 major medical surgery, life threatening, natural disaster, and death in immediate family. [1 O.C. 125.4-
113 6].

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

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

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

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

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

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

146 ■ *Effect.* The inclusion of the statement that an applicant has to demonstrate that he or she applied to
147 his or her local Energy Assistance Program before applying for the Fund provides further

148 clarification on how an applicant can meet the Law's requirement of first seeking out other
149 resources that can meet the needs of their request.

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

153 ■ *Effect.* The proposed amendments to the Law expand the availability of assistance for funeral travel
154 expenses for members of the Nation. Instead of restricting assistance for funeral travel expenses to
155 outside the state where the applicant resides, the Economic Support Services Department provided
156 that the corresponding rule in the Community Support Fund Law Rule Handbook will include
157 minimum distance requirements that qualify a person for assistance. The Economic Support
158 Services Department made this recommendation based on the understanding that there may be great
159 distances within the state the applicant resides that would prevent the applicant from attending or
160 arranging a funeral if the applicant did not have access to assistance.

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

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

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

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

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

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

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

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

217 **K. Minor Drafting Changes.** Minor drafting and formatting changes have been made throughout the
218 Law for clarity.
219

220 **SECTION 6. EXISTING LEGISLATION**

221 **A. References to other Laws of the Nation.** The following laws of the Nation are referenced in this Law:
222 ▪ *Administrative Rulemaking law.* The Administrative Rulemaking law provides a process for the
223 adoption and amendments of administrative rules. [1 O.C. 106.1-1].
224 ▪ This Law provides that the Fund Operator shall promulgate rules for the administration of
225 the Fund which shall include the list of categories the Fund covers and a cap that sets the
226 amount of assistance per event/per household, except for funeral expenses which shall be set
227 per event/per person. [1 O.C. 125.4-1(a)(1)].
228 ▪ This Law provides that the rules promulgated by the Fund Operator may include additional
229 items not listed in section 125.6 of the Law, as long as the rule does not conflict with any
230 provision of the Law. [1 O.C. 125.4-1(a)(2)].
231

232 **SECTION 7. OTHER CONSIDERATIONS**

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

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

247 **B. *Use of the Community Support Fund.*** In an effort to provide a better understanding on how the
 248 Community Support Fund is utilized by the membership, the following information was provided by
 249 the Economic Support Services Department which demonstrates how many times a year the category
 250 of the Fund was utilized, as well as the total benefit amount provided for each category of the Fund
 251 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

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

253 **C. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
 254 legislation except emergency legislation. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
 255 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.

261

262



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

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

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

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

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

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

12/8/20: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Michelle Myers, Mollie Passon, Kaylynn Gresham, Richard Figueroa, Kristal Hill, Rhiannon Metoxen, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the updated draft of the proposed amendments to the law. Attorney will update the draft based on these discussions and prepare the legislative analysis and public meeting packet.

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

12/16/20 LOC: Motion by Kirby Metoxen to approve the Emergency Management and Homeland Security law amendments draft, legislative analysis, and public comment period packet and forward the Emergency Management and Homeland Security law amendments to a public comment period to be held open until January 13, 2021; seconded by Marie Summers. Motion carried unanimously.

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

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 *CMS*
DATE: February 3, 2021
RE: Emergency Management and Homeland Security Law Amendments: Public
Comment Review with LOC Consideration

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 Olihwá:ke
Matters that are concerning immediate attention
EMERGENCY MANAGEMENT ~~AND HOMELAND SECURITY~~

- | | |
|--|--|
| 302.1. Purpose and Policy | 302.7. Public Health Emergencies and Communicable Disease |
| 302.2. Adoption, Amendment, Conflicts | 302.8. When Proclamation of an Emergency is Proclaimed |
| 302.3. Definitions | 302.9. Emergency Enforcement and Penalties |
| 302.4. Emergency Management Homeland Security Department | 202.10. COVID-19 Core Decision Making Team |
| 302.5. Oneida Nation Emergency Planning Committee (ONEPC) | 302.10. Enforcement and Penalties- |
| 302.6. Tribal Entity Cooperation | |

302.1. Purpose and Policy

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

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

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

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

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

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

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

302.2-3. ~~—~~ Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

302.2-4. ~~—~~ In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

302.3. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

84 ~~(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~~ Operations 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, 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~~ Operations 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 ~~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.

178 302.7-2. *Investigation of Communicable Disease.* If the Community/Public Health Officer
 179 suspects or is informed of the existence of any communicable disease, the Community/Public
 180 Health Officer shall investigate and make or cause examinations to be made, as are deemed
 181 necessary.

182 ~~302.7-3. The Community/Public Health Officer may quarantine, isolate, require restrictions, or~~
 183 ~~take other communicable disease control measures as necessary. Any individual, including an~~
 184 ~~authorized individual, who enters an isolation or quarantine premises may be subject to isolation~~
 185 ~~or quarantine under this law.~~ *Quarantinable Diseases.* The Community/Public Health Officer shall
 186 provide a list of quarantinable diseases specified in a resolution to be adopted by the Oneida
 187 Business Committee.

188 ~~302.7-4.(a) The list~~ *Authority of quarantinable diseases shall be specified in a resolution adopted*
 189 ~~by the Oneida Business Committee as recommended by the~~ *the* Community/Public Health Officer.
 190 The Community/Public Health Officer shall act as necessary to protect the public including, but
 191 not limited to, the following actions:

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

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

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

199 *302.7-5. Quarantine and Isolation.* The Community/Public Health Officer shall immediately
 200 quarantine, isolate, and/or take other communicable disease control measures upon an individual
 201 if the Community/Public Health Officer receives a diagnostic report from a physician or a written
 202 or verbal notification from an individual or his or her parent or caretaker that gives the
 203 Community/Public Health Officer a reasonable belief that the individual has a communicable
 204 disease that is likely to cause a public health emergency.

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

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

210 -
 211 ~~(a) 302.7-4. The Community/Public Health Officer shall act as necessary to protect the~~
 212 ~~public, including requesting the Director to take steps to have a public health emergency~~
 213 ~~proclaimed, as identified in 302.8.~~

214 ~~302.7-5. If an individual is infected with a communicable disease and the~~
 215 ~~Community/Public Health Officer determines it is necessary to limit contact with the~~
 216 ~~individual, all persons may be forbidden from being in direct contact with the infected~~
 217 ~~individual, except for those persons having a special written permit from the~~
 218 ~~Community/Public Health Officer.~~

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

224 ~~302.7-7. Expenses for~~ law.

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

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

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

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

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

237 ~~302.7-8. When~~302.7-6. Action when a Public Health Emergency is Proclaimed. In addition,
 238 when a public health emergency is proclaimed, the Community/Public Health Officer may do all
 239 of the following, as necessary:

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

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

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

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

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

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

251 302.8. When an Emergency is Proclaimed

252 302.7-7. The Oneida Police Department shall take enforcement action when necessary and work
 253 with the Community/Public Health Officer to execute the Community/Public Health Officer's
 254 orders and properly guard any place if quarantine, isolation, or other restrictions on communicable
 255 disease are violated or intent to violate becomes apparent.

256 302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected
 257 individual shall be charged against the individual or whoever is liable for the individual's care and
 258 support.

260 302.8. Proclamation of an Emergency

261 302.8-1. — Proclamation of an Emergency. The Oneida Business Committee shall be responsible
 262 for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or
 263 presidential declaration.

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

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

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

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

~~302.8-5.~~ No proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than ~~thirty (30)~~sixty (60) days, unless ~~renewed~~the proclamation of emergency is extended by the Oneida Business Committee.

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

~~302.8-4.~~ *After-Action Report.* After an emergency has subsided, the Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee, any interested entity, and the public. ~~This report shall be presented to the required parties no 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**

=

~~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;~~

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

326 ~~302.10-2. Delegation of Authority. The COVID-19~~The Emergency Core Decision Making Team
 327 shall have emergency authority to take the following actions:

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

337 ~~302.10-3. Duration of Authority for Exceptions Declared by the COVID-19 Team. Any actions~~
 338 ~~taken under authority granted in this section shall be effective upon the date declared by the~~
 339 ~~COVID-19 Team and shall be effective for the duration of any declared emergency, or for a shorter~~
 340 ~~time period if identified.~~

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

343 ~~302.10-4. Declarations.~~ All declarations made by the ~~COVID-19~~Emergency Core Decision
 344 Making Team shall:

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

352 ~~302.9-4. Duration of Authority for Exceptions Declared by the Emergency Core Decision Making~~
 353 ~~Team. Any declaration made under the authority granted in this section shall be effective upon~~
 354 ~~the date declared by the Emergency Core Decision Making Team and shall be effective for the~~
 355 ~~duration of any proclaimed emergency, or for a shorter time period if identified.~~

356 ~~302.9-5. Notification to the Oneida Business Committee. Within twenty-four (24) hours of a~~
 357 ~~declaration being made, the Emergency Core Decision Making Team shall provide notification of~~
 358 ~~the declaration to the Oneida Business Committee.~~

359 ~~302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or~~
 360 ~~emergency action taken by the Emergency Core Decision Making Team.~~

362 302.10. Enforcement and Penalties

363 302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct,
 364 hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued
 365 thereunder, whether or not an emergency has been proclaimed.

366 302.10-2. Citations. An Oneida Police Department officer may issue a citation to any person who
 367 violates a provision of this law.

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

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

372 302.10-3. Disciplinary Action. An employee of the Nation who violates this law during their work
 373 hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action
 374 in accordance with the Nation's laws and policies governing employment.

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

378
 379 End.

380
 381 Adopted - BC-07-15-98-A
 382 Amended - BC-12-20-06-G
 383 Emergency Amended - BC-04-30-09-A (Influenza A (H1N1))
 384 Amended - BC-05-13-09-F
 385 Emergency Amended - BC-03-17-20-E (COVID-19)
 386 Extension of Emergency - BC-08-26-20-A
 387 Amended - BC- - - -

Title 3. Health and Public Safety – Chapter 302
Yotlihokté Olihwá: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.

- 39 (b) “Communicable disease” means any disease transmitted from one person or animal to
40 another directly by contact with excreta or other discharges from the body, or indirectly via
41 substances or inanimate objects that may cause a public health emergency.
- 42 (c) “Community/Public Health Officer” means an agent of the Comprehensive Health
43 Division, or his or her designee(s), who is responsible for taking the appropriate actions in
44 order to prevent a public health emergency from occurring on the Reservation.
- 45 (d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division,
46 which is authorized to issue compulsory vaccinations, require isolation, and quarantine
47 individuals in order to protect the public health.
- 48 (e) “Director” means the Director of the Nation’s Emergency Management and Homeland
49 Security Agency.
- 50 (f) “Emergency” means a situation that poses an immediate risk to health, life, safety,
51 property, or environment which requires urgent intervention to prevent further illness,
52 injury, death, or other worsening of the situation.
- 53 (g) “Emergency Management Network” means the entities, volunteers, consultants,
54 contractors, outside agencies, and any other resources the Nation may use to facilitate inter-
55 agency collaboration, identify and share resources, and better prepare for local incidents
56 and large-scale disasters.
- 57 (h) “Emergency Response Plan” means the plan established to coordinate mitigation,
58 preparedness, response, and recovery activities for all emergency or disaster situations
59 within the Reservation.
- 60 (i) “Entity” means any agency, board, committee, commission, or department of the
61 Nation.
- 62 (j) “Fair Market Value” means the everyday cost of a product in an ordinary market,
63 absent of a disaster.
- 64 (k) “Isolation” means the separation of persons or animals presumably or actually infected
65 with a communicable disease, or that are disease carriers, for the usual period of
66 communicability of that disease in such places and under such conditions as will prevent
67 the direct or indirect transmission of an infectious agent to susceptible people or to those
68 who may spread the agent to others.
- 69 (l) “Judiciary” means the judicial system that was established by Oneida General Tribal
70 Council resolution GTC-01-07-13-B to administer the judicial authorities and
71 responsibilities of the Nation.
- 72 (m) “Nation” means the Oneida Nation.
- 73 (n) “National Incident Management System” or “NIMS” means the system mandated by
74 Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that
75 provides a consistent nationwide approach for federal, state, local, and tribal governments
76 to work effectively and efficiently together to prepare for, prevent, respond to, and recover
77 from domestic incidents, regardless of cause, size, or complexity.
- 78 (o) “Oneida Nation Emergency Planning Committee” means the committee that assists the
79 Director in the implementation of this law.
- 80 (p) “Proclaim” means to announce officially and publicly.
- 81 (q) “Public Health Emergency” means the occurrence or imminent threat of an illness or
82 health condition which:
- 83 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a
84 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)

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

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

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

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

142 143 **302.5. Oneida Nation Emergency Planning Committee**

144 302.5-1. The Oneida Nation Emergency Planning Committee shall consist of representatives from
 145 entities and a community representative as identified in the Oneida Nation Emergency Planning
 146 Committee bylaws as approved by the Oneida Business Committee.

147 302.5-2. The Oneida Nation Emergency Planning Committee shall meet as necessary to assist the
 148 Director in drafting and maintaining the Emergency Response Plan.

149 302.5-3. At the request of the Director, the Oneida Nation Emergency Planning Committee shall
 150 provide assistance to the Director in the implementation of the provisions of this law or any plan
 151 issued thereunder.

152 153 **302.6. Entity Cooperation**

154 302.6-1. All entities shall comply with reasonable requests from the Director relating to
 155 emergency planning, emergency operations, and federal mandate compliance.

156 302.6-2. The Nation may implement more strict policies or requirements than those issued by the
 157 Community/Public Health Officer.

158 159 **302.7. Public Health Emergencies**

160 302.7-1. In order to prevent a public health emergency, the Director and the Community/Public
 161 Health Officer shall take action to limit the spread of any communicable disease, in accordance
 162 with this law.

163 302.7-2. *Investigation of Communicable Disease.* If the Community/Public Health Officer
 164 suspects or is informed of the existence of any communicable disease, the Community/Public
 165 Health Officer shall investigate and make or cause examinations to be made, as are deemed
 166 necessary.

167 302.7-3. *Quarantinable Diseases.* The Community/Public Health Officer shall provide a list of
 168 quarantinable diseases specified in a resolution to be adopted by the Oneida Business Committee.

169 302.7-4. *Authority of the Community/Public Health Officer.* The Community/Public Health
 170 Officer shall act as necessary to protect the public including, but not limited to, the following
 171 actions:

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

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

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

179 302.7-5. *Quarantine and Isolation.* The Community/Public Health Officer shall immediately
 180 quarantine, isolate, and/or take other communicable disease control measures upon an individual
 181 if the Community/Public Health Officer receives a diagnostic report from a physician or a written
 182 or verbal notification from an individual or his or her parent or caretaker that gives the
 183 Community/Public Health Officer a reasonable belief that the individual has a communicable
 184 disease that is likely to cause a public health emergency.

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

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

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

195 302.7-6. *Action when a Public Health Emergency is Proclaimed.* In addition, when a public health
 196 emergency is proclaimed, the Community/Public Health Officer may do all of the following, as
 197 necessary:

198 (a) organize the vaccination of individuals;

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

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

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

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

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

208 302.7-7. The Oneida Police Department shall take enforcement action when necessary and work
 209 with the Community/Public Health Officer to execute the Community/Public Health Officer's
 210 orders and properly guard any place if quarantine, isolation, or other restrictions on communicable
 211 disease are violated or intent to violate becomes apparent.

212 302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected
 213 individual shall be charged against the individual or whoever is liable for the individual's care and
 214 support.

215

216 **302.8. Proclamation of an Emergency**

217 302.8-1. *Proclamation of an Emergency.* The Oneida Business Committee shall be responsible
 218 for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or
 219 presidential declaration.

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

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

226 302.8-2. No proclamation of an emergency by the Oneida Business Committee or the Director
 227 may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the
 228 Oneida Business Committee.

229 302.8-3. *Management Network.* The emergency management network of the Reservation shall
 230 be as specified in the Emergency Response Plan, as adopted by the Oneida Business Committee.

231 302.8-4. *After-Action Report.* After an emergency has subsided, the Director shall prepare, or
 232 shall work in conjunction with the appropriate entity to prepare, an after-action report to be
 233 presented to the Oneida Business Committee, any interested entity, and the public. This report
 234 shall be presented to the required parties no later than sixty (60) days after the emergency has
 235 subsided, unless an extension is granted by the Oneida Business Committee.

236 302.8-5. During a proclaimed emergency, the Conservation Department shall be responsible for
 237 the care, disposal, and sheltering of all abandoned domestic animals and livestock. The
 238 Conservation Department may delegate this responsibility to a contracted agency.

239

240 **302.9. Emergency Core Decision Making Team**

241 302.9-1. *Emergency Core Decision Making Team.* Upon the proclamation of an emergency under
 242 this law, the Oneida Business Committee may establish an Emergency Core Decision Making
 243 Team through the adoption of a motion. The motion shall identify the positions of the Nation which
 244 shall make up the members of the Emergency Core Decision Making Team based on the type and
 245 severity of emergency the Nation is experiencing.

246 302.9-2. *Delegation of Authority.* The Emergency Core Decision Making Team shall have
 247 emergency authority to take the following actions:

248 (a) Notwithstanding any requirements of the Legislative Procedures Act, declare
 249 exceptions to the Nation's laws during the emergency period which will be of immediate
 250 impact for the purposes of protecting the health, safety, and general welfare of the Nation's
 251 community, members, and employees; and

252 (b) Notwithstanding any requirements in any policy, procedure, regulation, or standard
 253 operating procedures, declare exceptions to any policy, procedure, regulation, or standard
 254 operating procedure during the emergency period which will be of immediate impact for
 255 the purposes of protecting the health, safety, and general welfare of the Nation's
 256 community, members, and employees.

257 302.9-3. *Declarations.* All declarations made by the Emergency Core Decision Making Team
 258 shall:

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

266 302.9-4. *Duration of Authority for Exceptions Declared by the Emergency Core Decision Making*
 267 *Team.* Any declaration made under the authority granted in this section shall be effective upon
 268 the date declared by the Emergency Core Decision Making Team and shall be effective for the
 269 duration of any proclaimed emergency, or for a shorter time period if identified.

270 302.9-5. *Notification to the Oneida Business Committee.* Within twenty-four (24) hours of a
 271 declaration being made, the Emergency Core Decision Making Team shall provide notification of
 272 the declaration to the Oneida Business Committee.

273 302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or
 274 emergency action taken by the Emergency Core Decision Making Team.

275

276 **302.10. Enforcement and Penalties**

277 302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct,
 278 hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued
 279 thereunder, whether or not an emergency has been proclaimed.

280 302.10-2. *Citations.* An Oneida Police Department officer may issue a citation to any person who
 281 violates a provision of this law.

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

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

286 302.10-3. *Disciplinary Action.* An employee of the Nation who violates this law during their work
 287 hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action
 288 in accordance with the Nation's laws and policies governing employment.

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

292

293 *End.*

294

295 Adopted - BC-07-15-98-A

296 Amended - BC-12-20-06-G

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

298 Amended - BC-05-13-09-F

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

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

301 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>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Amend title from Emergency Management and Homeland Security law to the Emergency Management law; ▪ Revise references to Oneida Community Health Services to Comprehensive Health Division; ▪ Include a definition for “emergency;” ▪ Revise the title of the Emergency Management and Homeland Security Agency to Emergency Management Department; ▪ Remove a provision regarding the Public Safety Officers’ Benefits Program from the law because it is provided for in federal law; ▪ Clarify that the Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer; ▪ Clarify that it is within the authority of the Community/Public Health Officer to issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation; ▪ Remove provision that required the Oneida Community Health Services to be responsible for certain expenses of an infected individual; ▪ Address the authority of the Community/Public Health Officer to organize the vaccinations of individuals during the Public Health Emergency; ▪ Clarify exemptions to the requirements for vaccines; ▪ Extend the time period for a proclamation of an emergency from thirty (30) days to sixty (60) days; ▪ Clarify that the Conservation Department may contract with an agency to cover their responsibility for the care, disposal, and sheltering of all abandoned domestic animals and livestock during a proclaimed emergency; ▪ Delegate authority to the Oneida Business Committee to establish an Emergency Core Decision Making Team upon the declaration of an emergency and determine which positions of the Nation will compose the Emergency Core Decision Making Team; ▪ Delegate authority to the Emergency Core Decision Making Team to declare exceptions to any law, policy, procedure, regulation, or standard operating procedure of the Nation; ▪ Provide how the Emergency Core Decision Making Team will make declarations, and the duration of authority for those declarations; ▪ Require that notification of any declaration be provided to the Oneida Business Committee within twenty-four (24) hours of a declaration being made; ▪ Clarify the authority of the Oneida Business Committee to modify, extend, or repeal any declaration or emergency action taken by the Emergency Core Decision Making Team;

	<ul style="list-style-type: none"> ▪ Provide that citations issued for violations of this Law shall be processed in accordance with the procedure contained in the Nation’s laws and policies governing citations; and ▪ Provide that the Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law.
Purpose	To provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; establish the use of the National Incident Management System; and designate authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].
Affected Entities	Community/Public Health Officer, Emergency Management Department
Public Meeting	A public comment period 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> ”
Fiscal Impact	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:

- 28 ▪ Oneida Business Committee;
- 29 ▪ Oneida Law Office;
- 30 ▪ Emergency Management Department;
- 31 ▪ Comprehensive Health Division;
- 32 ▪ Risk Management Department;
- 33 ▪ Intergovernmental Affairs;
- 34 ▪ General Manager; and
- 35 ▪ Strategic Planner.

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

- 37 ▪ Citations law;
- 38 ▪ Oneida Personnel Policies and Procedures; and
- 39 ▪ Legislative Procedures Act.

40

41 **SECTION 4. PROCESS**

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

- 43 ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Law
- 44 through the adoption of resolution BC-03-17-20-E for the purpose of creating and delegating
- 45 authority to a COVID-19 Core Decision Making Team.
- 46 ▪ On August 26, 2020, the Oneida Business Committee extended the emergency amendments to the
- 47 Law for an additional six (6) month period through the adoption of resolution BC-08-26-20-A.
- 48 ▪ The LOC added amendments to the Law to its Active Files List on October 7, 2020.
- 49 ▪ The emergency amendments to the Law are set to expire on March 17, 2021.
- 50 ▪ On December 16, 2020, the LOC approved a draft and legislative analysis for the proposed
- 51 amendments to the Law.
- 52 ▪ On December 16, 2020, the LOC approved the public comment period packet and forwarded the
- 53 proposed amendments to the Law to a public comment period to be held open until January 13,
- 54 2021.
- 55 ▪ The public comment period was held open until the close of business on January 13, 2021. Three
- 56 (3) submissions of written comments were received.

57 **B.** At the time this legislative analysis was developed the following work meetings had been held

58 regarding the development of these amendments:

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

66 **C. *COVID-19 Pandemic's Effect on the Legislative Process.*** The world is currently facing a pandemic

67 of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China

68 and has spread to many other countries throughout the world, including the United States. The COVID-

69 19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts

70 including effects on the stock market and the closing of all non-essential businesses. A public meeting

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

73 ■ *Declaration of a Public Health State of Emergency.*

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

79 ■ The Public Health State of Emergency has since been extended until February 11, 2020,
80 by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A,
81 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-
82 10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, and BC-01-07-21-A.

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

84 ■ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*
85 *at Home*” declaration which ordered all individuals present within the Oneida Reservation
86 to stay at home or at their place of residence, with certain exceptions allowed. This
87 declaration prohibited all public gatherings of any number of people.

88 ■ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*
89 *at Home*” declaration which allowed for gaming and golf operations to resume.

90 ■ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*
91 *Declaration, Amendment, Open for Business*” which directs that individuals within the
92 Oneida Reservation should continue to stay at home, businesses can re-open under certain
93 safer business practices, and social distancing should be practiced by all persons.

94 ■ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*
95 *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*
96 *Amendment, Open for Business*” while still providing guidance and some restrictions. This
97 declaration prohibits all public and private gatherings of more than twenty (20) people that
98 are not part of a single household or living unit.

99 ■ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”
100 which sets minimum standards for the safe re-opening of a building or recall of employees
101 to work.

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

104 ■ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a
105 “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which
106 suspended the Legislative Procedures Act's requirement to hold a public meeting during
107 the public comment period, but allows members of the community to still participate in the
108 legislative process by submitting written comments, questions, data, or input on proposed
109 legislation to the Legislative Operating Committee via e-mail during the public comment
110 period.

111 ■ Although a public meeting was not held for the proposed amendments to the Emergency
112 Management and Homeland Security law, a public comment period was still held open
113 until January 13, 2021, in accordance with the Legislative Procedures Act and the COVID-
114 19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative*

115 *Procedures Act*” declaration. Three (3) submissions of written comments were received
116 during the public comment period.
117

118 **SECTION 5. CONTENTS OF THE LEGISLATION**

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

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

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

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

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

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

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

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

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

163 **E. *Vaccinations During a Public Health Emergency.*** The proposed amendments to the Law adjust the
164 Community/Public Health Officer's authority in regard to vaccinations during a public health
165 emergency. The Law provides that when a public health emergency is proclaimed, the
166 Community/Public Health Officer may organize the vaccination of individuals. [3 O.C. 302.7-6(a)].
167 The Law then clarifies that the following types of individuals shall not be subject to a vaccination: an
168 individual who the vaccination is reasonably likely to lead to serious harm to the individual; or an
169 individual, for reason of religion or conscience, refuses to obtain the vaccination. [3 O.C. 302.7-
170 6(a)(1)(A)-(B)]. Previously, the Law provided that the Community/Public Health Officer had the
171 authority to order the vaccination of an individual, unless the vaccination is reasonably likely to lead to
172 serious harm to the individual or the individual, for reason of religion or conscience, refuses to obtain
173 the vaccination.

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

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

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

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

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

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

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

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

231 **B. *Delegation of Authority to the Emergency Core Decision Making Team.*** The proposed amendments
232 provide what authority the Emergency Core Decision Making Team is delegated. [3 O.C. 302.9-2].
233 The Emergency Core Decision Making Team shall have authority to declare exceptions to the Nation's
234 laws during the emergency period which will be of immediate impact for the purposes of protecting the
235 health, safety, and general welfare of the community, members of the Nation, and employees of the
236 Nation. [3 O.C. 302.9-2(a)]. The Emergency Core Decision Making Team is also delegated the
237 authority to make these exceptions to the Nation's laws notwithstanding the requirements of the
238 Legislative Procedures Act. This means that the Emergency Core Decision Making team does not have
239 to follow the requirements of the Legislative Procedures Act. The Emergency Core Decision Making
240 Team is also delegated authority to declare an exception to any policy, procedure, regulation, or
241 standard operating procedure of the Nation during the emergency period which will be of immediate
242 impact for the purposes of protecting the health, safety, and general welfare of the Nation's community,
243 members, and employees. [3 O.C. 302.10-2(b)]. The Emergency Core Decision Making Team is
244 delegated the authority to make these exceptions to the Nation's policies, procedures, regulations, or
245 standard operating procedures notwithstanding any requirements of the policies, procedures,
246 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.

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

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

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

301

302 **SECTION 6. EXISTING LEGISLATION**

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

304 ▪ *Citations law.* The Citations law provides a consistent process for handling citations of the Nation
305 in order to ensure equal and fair treatment to all persons who come before the Judiciary to have
306 their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started
307 – such as who has the authority to issue a citation, the requirements of the form of the citation, and
308 how a citation is served and filed; stipulations for the settlement of a citation; and the citation
309 hearing procedures. [8 O.C. 807].

310 ▪ This Law provides that a citation for a violation of this Law shall be processed in
311 accordance with the procedure contained in the Nation’s laws and policies governing
312 citations. [3 O.C. 302.10-2]. The Citations law is the Nation’s law governing citations.
313 ▪ Any citations issued by the Oneida Police Department for a violation of this Law must
314 comply with the requirements and procedures of the Citations law.

315 ▪ *Oneida Personnel Policies and Procedures.* The Oneida Personnel Policies and Procedures is the
316 Nation’s law which governs employment. The Oneida Personnel Policies and Procedures provides
317 the process for handling complaints, disciplinary actions, and grievances. [Section V.D.].

318 ▪ This Law provides that an employee of the Nation who violates this Law during their
319 work hours or who refuses to follow the Emergency Response Plan may be subject to
320 disciplinary action in accordance with the Nation’s laws and policies governing
321 employment. [3 O.C. 302.10-3].

322 ▪ This Law also provides that an employee of the Nation who is disciplined under this
323 Law may appeal the disciplinary action in accordance with the Nation’s laws and
324 policies governing employment. [3 O.C. 302.10-3(a)].

325 ▪ A supervisor would have to follow the disciplinary action procedure contained in the
326 Oneida Personnel Policies and Procedures to hold an employee accountable for a
327 violation of this Law.

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

329 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
330 Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws
331 of the Nation which includes taking into account comments from members of the Nation and input
332 from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].

333 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
334 legislation when the legislation is necessary for the immediate preservation of the

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

338 ▪ The Legislative Operating Committee is responsible for first reviewing the
339 emergency legislation and for forwarding the legislation to the Oneida
340 Business Committee for consideration. [1 O.C. 109.9-5(a)].

341 ▪ The proposed emergency legislation is required to have a legislative analysis
342 completed and attached prior to being sent to the Oneida Business Committee
343 for consideration. [1 O.C. 109.9-5(a)].

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

352 ▪ Emergency legislation does not require a fiscal impact statement to be
353 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].

354 ▪ Upon the determination that an emergency exists the Oneida Business
355 Committee can adopt emergency legislation. The emergency legislation
356 becomes effective immediately upon its approval by the Oneida Business
357 Committee. [1 O.C. 109.9-5(b)].

358 ▪ Emergency legislation remains in effect for a period of up to six (6) months,
359 with an opportunity for a one-time emergency law extension of up to six (6)
360 months. [1 O.C. 109.9-5(b)].

361 ▪ Section 302.9-2(a) of the proposed emergency amendments to this Law conflict with
362 section 109.9-5 of the Legislative Procedures Act. The Legislative Procedures Act
363 provides a clear process for how the Nation is expected to handle emergency
364 legislation. The proposed amendments allow the Emergency Core Decision Making
365 Team the authority to declare exceptions to laws of the Nation notwithstanding any
366 requirements of the Legislative Procedures Act.

367 ▪ Although the proposed amendments conflict with the Legislative Procedures Act, the
368 Oneida Business Committee is being asked to consider the adoption of this amendment
369 due to the fact that the Nation needs to be able to address its internal governmental
370 operations and laws as they relate to an emergency on a daily, or even hourly basis in
371 order to provide the best effort of protection the health, safety, and general welfare of
372 the Reservation population.

373 ▪ The proposed amendments allocation of authority to the Emergency Core Decision
374 Making Team to declare exceptions to the Nation's laws during the emergency period
375 which will be of immediate impact for the purposes of protecting the health, safety,
376 and general welfare of the Nation's community, members, and employees will
377 supersede the requirements of the Legislative Procedures Act when the Nation has
378 proclaimed an emergency.

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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

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

Submission Date: 12/18/18	Public Meeting: N/A
LOC Sponsor: Jennifer Webster	Emergency Enacted: 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 *DJ*
DATE: February 10, 2021
RE: Emergency Amendments to the Oneida General Welfare Law

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
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- 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
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- 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
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- 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
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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
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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>	
Intent of the Proposed Law	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)].
Purpose	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].
Affected Entities	Oneida Business Committee, Entities developing approved programs
Public Meeting	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
Expiration of Emergency Legislation	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.

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- On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
 - The Public Health State of Emergency has since been extended until 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.*
 - On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10].
 - When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2].
 - These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].
 - *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

68 suspended the Legislative Procedures Act's requirement to hold a public meeting during
69 the public comment period, but allows members of the community to still participate in the
70 legislative process by submitting written comments, questions, data, or input on proposed
71 legislation to the Legislative Operating Committee via e-mail during the public comment
72 period.
73

74 **SECTION 3. CONSULTATION AND OUTREACH**

- 75 **A.** Representatives from the following departments or entities participated in the development of this Law
76 and legislative analysis:
- 77 ▪ Oneida Law Office;
 - 78 ▪ Finance Administration; and
 - 79 ▪ Governmental Services Division.
- 80 **B.** The following laws were reviewed in the drafting of this analysis:
- 81 ▪ Legislative Procedures Act.
- 82

83 **SECTION 4. PROCESS**

- 84 **B.** The amendments to this Law are being considered on an emergency basis. The Oneida Business
85 Committee may temporarily amend a law when “legislation is necessary for the immediate preservation
86 of public health, safety, or general welfare of the Reservation population and enactment or amendment
87 of legislation is required sooner than would be possible under this law.” [1 O.C. 109.9-5].
- 88 ▪ Emergency amendments to this Law are being pursued for the preservation of the general welfare
89 of the Reservation population. The emergency amendments to this Law will assist in more
90 efficiently addressing the economic needs of the Reservation population during the public health
91 crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and
92 operating approved programs that may provide assistance to Tribal members on a non-taxable basis
93 through the adoption of a resolution in addition to the adoption of a law.
 - 94 ▪ Observance of the requirements under the Legislative Procedures Act for the amendments to this
95 Law would be contrary to public interest. The Nation is currently experiencing the vast effects of
96 the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act
97 cannot be completed in time to ensure that the Law can be amended to best assist members of the
98 Nation during this COVID-19 pandemic through the development of approved programs which
99 provide assistance to Tribal members.
- 100 **C.** Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a
101 six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].
- 102 **D.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
103 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact
104 statement will eventually be required when considering permanent adoption of this Law.
- 105 **D.** The following work meetings were held regarding the development of this Law and legislative analysis:
- 106 ▪ January 14, 2021: LOC work meeting with the Oneida Law Office, Finance Department, Strategic
107 Planner, and Governmental Services Division.
 - 108 ▪ January 28, 2021: LOC work meeting.
- 109
110

111 **SECTION 5. CONTENTS OF THE LEGISLATION**

112 **A. Definition of Approved Program.** The proposed emergency amendment to the Law revises the
113 definition for “approved program.” [10 O.C. 1001.3-1(a)]. The emergency amendment to the Law
114 provides that an approved program means any program(s) to provide general welfare assistance that is
115 intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific
116 guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation.
117 [10 O.C. 1001.3-1(a)]. Previously, the Law provided that an approved program means any program(s)
118 to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare
119 Exclusion, administered under specific guidelines, and is adopted as a law by resolution of the Oneida
120 Business Committee. Approved programs are established and operated to promote the general welfare
121 of the Nation, including programs designed to enhance the promotion of health, education, self-
122 sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and
123 employment. [10 O.C. 1001.9-2]. Each approved program is required to set forth the specific eligibility
124 rules and limitations that will be applied to that program. [10 O.C. 1001.9-3]. Programs comprising
125 descriptions, including eligibility rules and limitations, may be presented to the Oneida Business
126 Committee for approval. *Id.*

127 **Effect.** The emergency amendments to the Law allow for an approved program to be adopted by
128 the Oneida Business Committee by resolution in addition to through the adoption of a law of the
129 Nation. This revision provides more flexibility and efficiency for how an approved program may
130 be adopted. An approved program that intends to function on a permanent basis would be best
131 suited to be adopted through a law of the Nation – whether that be through emergency legislation
132 or through the regular legislative process. An approved program that is needed quickly to best
133 address the needs of the community and will only be in place for a limited term may be more
134 efficiently adopted through a resolution of the Nation.
135

136 **SECTION 6. EXISTING LEGISLATION**

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

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

- 153 a. A legislative analysis is a plain language analysis describing the
154 important features of the legislation being considered and factual
155 information to enable the Legislative Operating Committee to make
156 informed decisions regarding legislation. A legislative analysis
157 includes a statement of the legislation’s terms and substance; intent of
158 the legislation; a description of the subject(s) involved, including any
159 conflicts with Oneida or other law, key issues, potential impacts of the
160 legislation and policy considerations. [1 O.C. 109.3-1(g)].
- 161 ▪ Emergency legislation does not require a fiscal impact statement to be
162 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
 - 163 ▪ Upon the determination that an emergency exists the Oneida Business
164 Committee can adopt emergency legislation. The emergency legislation
165 becomes effective immediately upon its approval by the Oneida Business
166 Committee. [1 O.C. 109.9-5(b)].
 - 167 ▪ Emergency legislation remains in effect for a period of up to six (6) months,
168 with an opportunity for a one-time emergency law extension of up to six (6)
169 months. [1 O.C. 109.9-5(b)].
 - 170 ▪ Emergency amendments to this Law would conform with the requirements of the
171 Legislative Procedures Act.
- 172

173 SECTION 7. OTHER CONSIDERATIONS

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

182

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

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

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

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

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

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

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

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

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

78 (h) "Nation" means the Oneida Nation.

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

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

82 83 **1001.4. Ratification of Prior Acts**

84 1001.4-1. This law is not to be construed as creating new general welfare assistance rights which
 85 are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by
 86 the Nation to administer its general welfare assistance.

87 1001.4-2. Assistance provided prior to the enactment of this law is hereby ratified and confirmed
88 as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal
89 sovereignty.
90

91 **1001.5. General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General**
92 **Welfare Exclusion of 2014**

93 1001.5-1. The federal government recognizes that benefits to recipients under an approved
94 program for the promotion of the general welfare of the Nation is excludable from the gross income
95 of those recipients.

96 1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and
97 detailed examples of Safe Harbor programs under which, if approved and in writing, need would
98 be presumed, and benefits would be excluded from gross income.

99 1001.5-3. Benefits authorized by this law are intended to qualify non-taxable under the principles
100 of the General Welfare Exclusion to the fullest extent permitted at law.

101 1001.5-4. Assistance authorized by this law shall be limited to funds appropriated, at the discretion
102 of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted
103 by the Nation for assistance shall remain general assets of the Nation until payments are disbursed.

104 1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue
105 Service.

106 1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:

107 (a) Benefits that satisfy the requirements for the exemption under 26 U.S.C. §139E;

108 (b) Benefits that are provided under an IRS Safe Harbor Program listed and described in
109 I.R.S. Rev. Proc. 2014-35; or

110 (c) Benefits that qualify for exclusion under the I.R.S. General Criteria of General Welfare
111 exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).
112

113 **1001.6. Non-Recourse Designation**

114 1001.6-1. The Nation does not guarantee benefits under this law. Benefits shall not be treated as
115 a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right
116 to any funds budgeted for, or set aside for, approved programs until paid. Oneida Business
117 Committee reserves the right to cancel, adjust, modify or revoke any benefit. The approved
118 programs shall be administered at all times to avoid triggering of the doctrines of “constructive
119 receipt” and/or “economic benefit.”
120

121 **1001.7. Governing Law; Sovereignty**

122 1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance
123 made hereunder, shall be construed and enforced according to the Nation’s laws and applicable
124 federal law. Nothing in this law or the related laws, policies, or procedures adopted for its
125 implementation, if any, shall be construed to make applicable to the Nation any laws or regulations
126 which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption
127 because of its sovereign status.
128

129 **1001.8. Federal Trust Obligations**

130 1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal
 131 funding is insufficient to operate federal programs designed to benefit applicants and when federal
 132 funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation's
 133 adoption of its approved programs is not intended to relieve or diminish the federal government of
 134 its funding and trust responsibilities. Nothing herein shall waive the Nation's right to seek funding
 135 shortfalls or to enforce the trust rights of the Nation and its citizens. The Nation shall be entitled
 136 to government-to-government consultation and coordination with the federal government in regard
 137 to these obligations.

138
 139 **1001.9. Approved Program Guidelines**

140 1001.9-1. *Nation Approved Programs.* The Oneida Business Committee shall designate approved
 141 programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this
 142 law. Each approved program shall be consistent with the principles of the General Welfare
 143 Exclusion as to purpose, eligibility, and funding.

144 1001.9-2. *Purpose of Approved Programs.* Each approved program shall be limited to purposes
 145 consistent with treatment under the General Welfare Exclusion. An approved program shall be
 146 established and operated to promote the general welfare of the Nation, including programs
 147 designed to enhance the promotion of health, education, self-sufficiency, self-determination, and
 148 the maintenance of culture and tradition, entrepreneurship, and employment.

149 1001.9-3. *Eligibility.* Assistance intended to qualify under the General Welfare Exclusion shall
 150 be limited to Tribal members. Each approved program shall set forth the specific eligibility rules
 151 and limitations applied to that program. Programs comprising descriptions, including eligibility
 152 rules and limitations, may be presented to the Oneida Business Committee for approval in
 153 accordance with this law. Programs shall be approved by the Oneida Business Committee to be
 154 considered in force and effect and in accordance with this law.

155 1001.9-4. *Limited Use of Assistance Payments.* All assistance shall be used for the purpose stated
 156 in the approved program description. If assistance is used or pledged for a purpose inconsistent
 157 with the purpose set forth in an approved program the payment shall be deemed forfeited. The
 158 Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration
 159 from other payments made to recipient to secure repayment of assistance under this law.

160 1001.9-5. *Anti-Alienation.* A Tribal member's benefit is not subject to anticipation, alienation,
 161 sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the
 162 Tribal member.

163
 164 *End.*

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166

167
 168 Emergency Adopted - BC-08-12-20-D

169 Emergency Amended – BC- - - -

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171

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

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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, 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

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

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

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

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

53 (1) Paid on behalf of the Nation;

54 (2) Pursuant to an approved program;

55 (3) Does not discriminate in favor of members of the governing body of the Nation;

56 (4) Are available to any Tribal member who meets the guidelines of the approved
 57 program;

58 (5) Are for the promotion of general welfare;

59 (6) Are not lavish or extravagant;

60 (7) Are not compensation for services; and

61 (8) Are not per capita payments.

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

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

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

78 (h) "Nation" means the Oneida Nation.

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

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

82 83 **1001.4. Ratification of Prior Acts**

84 1001.4-1. This law is not to be construed as creating new general welfare assistance rights which
 85 are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by
 86 the Nation to administer its general welfare assistance.

87 1001.4-2. Assistance provided prior to the enactment of this law is hereby ratified and confirmed
88 as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal
89 sovereignty.
90

91 **1001.5. General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General**
92 **Welfare Exclusion of 2014**

93 1001.5-1. The federal government recognizes that benefits to recipients under an approved
94 program for the promotion of the general welfare of the Nation is excludable from the gross income
95 of those recipients.

96 1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and
97 detailed examples of Safe Harbor programs under which, if approved and in writing, need would
98 be presumed, and benefits would be excluded from gross income.

99 1001.5-3. Benefits authorized by this law are intended to qualify non-taxable under the principles
100 of the General Welfare Exclusion to the fullest extent permitted at law.

101 1001.5-4. Assistance authorized by this law shall be limited to funds appropriated, at the discretion
102 of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted
103 by the Nation for assistance shall remain general assets of the Nation until payments are disbursed.

104 1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue
105 Service.

106 1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:

107 (a) Benefits that satisfy the requirements for the exemption under 26 U.S.C. §139E;

108 (b) Benefits that are provided under an IRS Safe Harbor Program listed and described in
109 I.R.S. Rev. Proc. 2014-35; or

110 (c) Benefits that qualify for exclusion under the I.R.S. General Criteria of General Welfare
111 exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).
112

113 **1001.6. Non-Recourse Designation**

114 1001.6-1. The Nation does not guarantee benefits under this law. Benefits shall not be treated as
115 a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right
116 to any funds budgeted for, or set aside for, approved programs until paid. Oneida Business
117 Committee reserves the right to cancel, adjust, modify or revoke any benefit. The approved
118 programs shall be administered at all times to avoid triggering of the doctrines of “constructive
119 receipt” and/or “economic benefit.”
120

121 **1001.7. Governing Law; Sovereignty**

122 1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance
123 made hereunder, shall be construed and enforced according to the Nation’s laws and applicable
124 federal law. Nothing in this law or the related laws, policies, or procedures adopted for its
125 implementation, if any, shall be construed to make applicable to the Nation any laws or regulations
126 which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption
127 because of its sovereign status.
128

129 **1001.8. Federal Trust Obligations**

130 1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal
 131 funding is insufficient to operate federal programs designed to benefit applicants and when federal
 132 funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation's
 133 adoption of its approved programs is not intended to relieve or diminish the federal government of
 134 its funding and trust responsibilities. Nothing herein shall waive the Nation's right to seek funding
 135 shortfalls or to enforce the trust rights of the Nation and its citizens. The Nation shall be entitled
 136 to government-to-government consultation and coordination with the federal government in regard
 137 to these obligations.

138
 139 **1001.9. Approved Program Guidelines**

140 1001.9-1. *Nation Approved Programs.* The Oneida Business Committee shall designate approved
 141 programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this
 142 law. Each approved program shall be consistent with the principles of the General Welfare
 143 Exclusion as to purpose, eligibility, and funding.

144 1001.9-2. *Purpose of Approved Programs.* Each approved program shall be limited to purposes
 145 consistent with treatment under the General Welfare Exclusion. An approved program shall be
 146 established and operated to promote the general welfare of the Nation, including programs
 147 designed to enhance the promotion of health, education, self-sufficiency, self-determination, and
 148 the maintenance of culture and tradition, entrepreneurship, and employment.

149 1001.9-3. *Eligibility.* Assistance intended to qualify under the General Welfare Exclusion shall
 150 be limited to Tribal members. Each approved program shall set forth the specific eligibility rules
 151 and limitations applied to that program. Programs comprising descriptions, including eligibility
 152 rules and limitations, may be presented to the Oneida Business Committee for approval in
 153 accordance with this law. Programs shall be approved by the Oneida Business Committee to be
 154 considered in force and effect and in accordance with this law.

155 1001.9-4. *Limited Use of Assistance Payments.* All assistance shall be used for the purpose stated
 156 in the approved program description. If assistance is used or pledged for a purpose inconsistent
 157 with the purpose set forth in an approved program the payment shall be deemed forfeited. The
 158 Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration
 159 from other payments made to recipient to secure repayment of assistance under this law.

160 1001.9-5. *Anti-Alienation.* A Tribal member's benefit is not subject to anticipation, alienation,
 161 sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the
 162 Tribal member.

163
 164 *End.*

165

166

167
 168 Emergency Adopted - BC-08-12-20-D

169 Emergency Amended – BC-__-__-__-__

170

171



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
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 ~~Tribe of Indians of Wisconsin.~~ Nation.
 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, ~~est~~-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~~+ty-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:
- a. Request the Business Committee to compel entity representatives to attend meetings in order to represent issues.
 - b. Request the Business Committee to compel entity representatives to comply with audit requests and reply to audit reports.
 - c. 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.
 - d. 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.
 - e. Request the Business Committee to issue notices of violation of Oath of Office, as appropriate, to entity members.
 - f. 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:
- a. Compliance with legal and regulatory requirements.
 - b. Risk assessment and risk management.
 - c. Adopt a code of ethics which includes monitoring and enforcement.
 - d. Establish procedures for the receipt, retention, and treatment of complaints; establish a confidential anonymous submission by individuals for concerns regarding questionable matters.
 - e. 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:
- a. Verify the qualifications of the external auditor.
 - b. Oversee the performance of the external audit.
 - c. 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.

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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28	29	30	31			

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