

ONEIDA NATION PUBLIC COMMENT PERIOD NOTICE

**Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY, OCTOBER 13, 2021**



Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

ONEIDA GENERAL WELFARE LAW

The Oneida General Welfare law was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D. Emergency amendments were then made to the Law by the Oneida Business Committee through the adoption of resolution BC-02-10-21-B, and subsequently extended through resolution BC-07-28-21-M. The emergency amendments to this Law will expire on February 10, 2022. The Legislative Operating Committee has now prepared the Oneida General Welfare law for permanent adoption,

The purpose of the Oneida General Welfare law is to set forth a framework and provide guidelines for the Nation to establish and operate approved programs to provide assistance on a non-taxable basis to eligible members of the Nation in accordance with the principles of General Welfare Exclusion. Approved programs promote the general welfare of the Nation, and includes programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

Approved programs must be adopted by the Oneida Business Committee through either law or resolution of the Nation, and provide the specific eligibility rules and limitations applied to that program. Examples of approved programs adopted by the Nation include the Pandemic Relief Assistance Program, Oneida Higher Education Pandemic Relief Fund, and the Oneida Nation Assistance Fund. Any assistance received from an approved program under the Oneida General Welfare law is required to be used only for the purpose stated in the approved program description. Currently, the Oneida General Welfare law provides that assistance received by a person from an approved program is not subject to attachment or garnishment by creditors. Assistance received by a person from an approved program is not a per capita payment or income.

For more information on the permanent adoption of the Oneida General Welfare law please review the public comment packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).

PUBLIC COMMENT PERIOD CLOSURES WEDNESDAY, OCTOBER 13, 2021

*In accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines during Public Health State of Emergency—COVID-19*, indoor and outdoor gatherings are prohibited when the COVID-19 infection rates within Brown or Outagamie Counties exceed “Low” as identified by the Wisconsin Department of Health Services. Although an in-person public meeting will not be held for this item, a public comment period will still remain open in accordance with the Nation’s COVID-19 Team’s March 27, 2020, declaration titled “*Suspension of Public Meetings under the Legislative Procedures Act*” which provides that the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency, but individuals can still participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



ONEIDA GENERAL WELFARE LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	Provides a framework for the Nation to develop approved programs to provide assistance to members on a non-taxable basis in an effort to promote the general welfare while ensuring 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, and that all assistance provided under this law: <ul style="list-style-type: none"> ▪ is available to any recipients who satisfy the program policies, subject to budgetary restraints; ▪ is made under an approved program that does not discriminate in favor of members of the Nation’s governing body; ▪ is not provided as compensation for goods and/or services; and ▪ is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.
Purpose	The purpose of this law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion. <i>[10 O.C. 1001.1-1]</i> .
Affected Entities	Oneida Business Committee, Entities developing approved programs
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. On August 12, 2020, 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 members of the Nation through approved programs that promote the general welfare of the Nation. *[10 O.C. 1001.1-1, 1001.1-3]*. Emergency adoption of the 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 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 Law was set to expire on February 12, 2021. In February 2021, emergency amendments to the Law were then adopted by the Oneida Business Committee through resolution BC-02-10-21-B for the purpose of addressing how an approved program would be 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)]*. Previously, an approved program could only be adopted by the Oneida Business Committee through a law of the Nation. These emergency amendments to the Law were set to expire on August

20 10, 2021. On July 28, 2021, the Oneida Business Committee extended the emergency amendments for
21 an additional six (6) month period through the adoption of resolution BC-07-28-21-M. The emergency
22 amendments to this Law will now expire on February 10, 2022.

23 **B.** The Legislative Operating Committee is now seeking the permanent adoption of this Law.

24 **SECTION 3. CONSULTATION AND OUTREACH**

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

- 27 ▪ Oneida Law Office;
- 28 ▪ Finance Administration; and
- 29 ▪ Governmental Services Division.

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

- 31 ▪ Legislative Procedures Act.

32

33 **SECTION 4. PROCESS**

34 **A.** This Law has followed the process set forth in the Legislative Procedures Act (LPA).

- 35 ▪ On August 12, 2020, the Law was adopted by the Oneida Business Committee on an emergency
36 basis through resolution BC-08-12-20-D.
- 37 ▪ On October 7, 2020, the Legislative Operating Committee added the Law to its Active Files
38 List.
- 39 ▪ On February 10, 2021, the Oneida Business Committee adopted emergency amendments to the
40 Law through resolution BC-02-10-21-B.
- 41 ▪ On April 14, 2021, the Oneida Business Committee adopted resolution BC-04-14-21-D titled,
42 *Oneida Nation Assistance Fund*, which directed that the Legislative Operating Committee hold
43 a community input session on the public policy of “funds paid to members pursuant general
44 welfare programs are not subject to garnishment, attachment, seizure, or execution of levy of
45 any kind, including the administrative enforcement actions listed in 7 O.C. Chapter 704 (Child
46 Support), and any attempt to cause any payments to be so subjected shall not be recognized by
47 the Nation” and whether such policy should be a general policy or be addressed specifically in
48 regards to each general welfare program under Title 1000 and Chapter 1001.
- 49 ▪ On May 5, 2021, the Legislative Operating Committee approved the Oneida General Welfare
50 law amendments public comment period notice for the question, *Should assistance provided*
51 *by an approved program under the Oneida General Welfare law be subject to attachment or*
52 *garnishment?* and forward this question to a public comment period to be held open until June
53 9, 2021.
- 54 ▪ On June 9, 2021, the public comment period closed for the question above closed. The
55 Legislative Operating Committee received written submissions of comments from six (6)
56 individuals.
- 57 ▪ On July 7, 2021, the Legislative Operating Committee accepted the public comments that were
58 received.
- 59 ▪ On July 21, 2021, the Legislative Operating Committee approved the Oneida General Welfare
60 law emergency amendments extension packet and forwarded the extension to the Oneida
61 Business Committee for consideration.

- 62 ▪ On July 28, 2021, the Oneida Business Committee extended the emergency amendments to the
63 Law through the adoption of resolution BC-07-28-21-M.
- 64 ▪ On September 1, 2021, the Legislative Operating Committee approved the draft of the Law and
65 directed that a legislative analysis be completed.

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

- 68 ▪ January 14, 2021: LOC work meeting with the Oneida Law Office, Finance Administration,
69 Strategic Planner, and Susan House.
- 70 ▪ January 28, 2021: LOC work meeting.
- 71 ▪ February 9, 2021: LOC work meeting with the Oneida Law Office, Finance Administration,
72 Trust Enrollments Director, Susan House.
- 73 ▪ April 21, 2021: LOC work meeting.
- 74 ▪ April 29, 2021: LOC work meeting.
- 75 ▪ June 24, 2021: LOC work meeting.
- 76 ▪ August 26, 2021: LOC work meeting.

77 **C. *COVID-19 Pandemic’s Effect on the Legislative Process.*** The world is currently facing a pandemic
78 of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other
79 countries throughout the world, including the United States. The COVID-19 pandemic has resulted in
80 high rates of infection and mortality, as well as vast economic impacts including effects on the stock
81 market and the closing of all non-essential businesses. A public meeting for this proposed Law will not
82 be held due to the COVID-19 pandemic, but a public comment period for the submission of written
83 comments will be held open.

- 84 ▪ *Declaration of a Public Health State of Emergency.*
 - 85 ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*
86 *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State
87 of Emergency for the Nation until April 12, 2020, and set into place the necessary authority
88 for action to be taken and allows the Nation to seek reimbursement of emergency
89 management actions that may result in unexpected expenses.
 - 90 ▪ The Public Health State of Emergency has since been extended until September 26, 2021,
91 by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A,
92 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-
93 10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-
94 10-21-D, BC-05-12-21-A, BC-06-23-21-B, and BC-07-28-21-N.
- 95 ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
96 *Legislative Procedures Act.*
 - 97 ▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a
98 “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which
99 suspended the Legislative Procedures Act's requirement to hold a public meeting during
100 the public comment period, but allows members of the community to still participate in the
101 legislative process by submitting written comments, questions, data, or input on proposed
102 legislation to the Legislative Operating Committee via e-mail during the public comment
103 period.
- 104 ▪ *Oneida Business Committee Resolution BC-08-03-21-A, Setting Public Gathering Guidelines*
105 *during Public Health State of Emergency—COVID-19.*

- 106 ▪ On August 3, 2021, the Oneida Business Committee adopted resolution BC-08-03-21-A
107 entitled, *Setting Public Gathering Guidelines during Public Health State of Emergency—*
108 *COVID-19*, which provides that indoor and outdoor events shall be canceled when the
109 infection rates within Brown or Outagamie Counties exceed “Low” as identified by the
110 Wisconsin Department of Health Services. Both Brown and Outagamie Counties are
111 experiencing “Very High” COVID-19 infection rates.
- 112 ▪ *Conclusion.*
- 113 ▪ Although a public meeting will not be held on the proposed Law, a public comment period
114 will still held open until October 13, 2021, in accordance with resolution BC-08-03-21-A
115 and the Legislative Procedures Act as modified by the COVID-19 Core Decision Making
116 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.
117

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

119 **A. *Purpose and Policy.*** The purpose of this law is to govern how the Nation provides assistance to eligible
120 members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion. [10 O.C.
121 1001.1-1]. The federal government through the Tribal General Welfare Exclusion Act of 2014, codified
122 at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the general
123 welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal
124 governments to provide financial assistance to its members under certain circumstances on a non-
125 taxable basis. [10 O.C. 1001.1-1(a)]. It is the policy of the Nation to provide assistance to members
126 through approved programs that promote the general welfare of the Nation which is available to any
127 recipients who satisfies the program policies, subject to budgetary restraints; is made under an approved
128 program that does not discriminate in favor of members of the Nation’s governing body; is not provided
129 as compensation for goods or services; and is not lavish or extravagant under the facts and
130 circumstances, as determined by the Oneida Business Committee. [10 O.C. 1001.1-2].

- 131 ▪ *Effect.* The overall purpose of this Law is to codify the Nation’s sovereign right to provide
132 assistance to its members on a non-taxable basis, and to provide a framework for the Nation to
133 create approved programs to do so.

134 **B. *General Welfare Assistance.*** The Nation has an inherent sovereign right to provide assistance to its
135 eligible members on a non-taxable basis pursuant to the principles of General Welfare Exclusion. [10
136 O.C. 1001.4-1]. General Welfare Exclusion provides that any assistance shall be treated as non-taxable
137 under federal law so long as it: satisfies the requirements for exclusion under 26 U.S.C. §139E, is
138 provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent
139 Internal Revenue Service procedures or regulations, or meets the criteria of the General Test under the
140 I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section
141 5.02(1). *Id.* The General Test provides criteria used to determine if any assistance provided through an
142 approved program to a recipient shall be treated as a General Welfare Exclusion. [10 O.C. 1001.4-2].
143 The criteria of the General Test include the following: the assistance is paid on behalf of the Nation,
144 the assistance was provided pursuant to an approved program, the assistance does not discriminate in
145 favor of members of the governing body of the Nation, the assistance is available to any member who
146 meets the guidelines of the approved program, the assistance is provided for the promotion of general
147 welfare, the assistance is not lavish or extravagant, the assistance is not compensation for services, and
148 the assistance is not a per capita payment. [10 O.C. 1001.4-2(a)-(h)]. Any assistance provided by the
149 Nation under the General Welfare Exclusion shall occur through an approved program and qualify as

150 non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.
151 [10 O.C. 1001.4-3]. Approved programs shall be established and operated to promote the general
152 welfare of the Nation, including programs designed to enhance the promotion of health, education, self-
153 sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and
154 employment. [10 O.C. 1001.4-3(a)]. Furthermore, this Law shall not be construed as creating new
155 general welfare assistance rights which are an inherent right of Nation. [10 O.C. 1001.4-4]. Rather, this
156 law is intended to codify existing procedures used by the Nation to administer its general welfare
157 assistance and any assistance provided prior to the enactment of this Law is hereby ratified and
158 confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent
159 tribal sovereignty. *Id.*

160 ■ **Effect.** The Law provides details on how assistance provided through approved programs will
161 meet the principles of General Welfare Exclusion so that assistance may be non-taxable.

162 **C. Approved Program Guidelines.** This section of the Law sets forth the guidelines that approved
163 programs of the Nation will be created under. The Law requires that an approved program be adopted
164 by the Oneida Business Committee through either a resolution or law of the Nation. [10 O.C. 1001.5-
165 1]. An approved program may be adopted through a resolution if the approved program will function
166 for a limited term – a limited term means there is a defined start and end date, or the program utilizes
167 third-party funding and is not intended to be permanent. [10 O.C. 1001.3-1(d), 1001.5-1(b)]. If the
168 purpose of the approved program will function on a permanent basis, then the approved program is
169 required to be adopted through a law of the Nation. [10 O.C. 1001.5-1(a)]. The Law provides what
170 information an approved program is required to include in its adopting document, which includes: name
171 of the approved program, purpose of the approved program, eligibility rules and limitations for the
172 program, funding source, how the program qualifies for General Welfare Exclusion, and the start and
173 end date of the approved program, if applicable. [10 O.C. 1001.5-1(c)]. Any assistance intended to
174 qualify under the General Welfare Exclusion is limited to members of the Nation only. [10 O.C. 1001.5-
175 2]. Regarding the funding of approved programs, any assistance provided is limited to funds
176 appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds.
177 [10 O.C. 1001.5-3]. All amounts budgeted by the Nation for assistance shall remain general assets of
178 the Nation until payments are disbursed. *Id.* The Oneida Business Committee is responsible for
179 designating approved programs for which funds shall be budgeted each fiscal year, consistent with the
180 purposes of this law. *Id.* Approved programs may also be funded through third-party funding if
181 available. *Id.* All assistance that is provided to a recipient is required to be used for the purpose stated
182 in the approved program description. [10 O.C. 1001.5-4]. If a recipient uses assistance in a manner that
183 is inconsistent with the purpose of the approved program, then the payment is considered forfeited, and
184 the Nation may secure repayment from the recipient. *Id.* The Law then clarifies that any benefit a
185 member of the Nation receives is not subject to anticipation, alienation, sale, transfer, assignment,
186 pledge, encumbrance, attachment or garnishment by creditors of the member. [10 O.C. 1001.5-5].

187 ■ **Effect.** This section of the Law provides details on the framework for how approved programs
188 under the Law are developed and handled.

189 **D. Non-Recourse Designation.** The Nation does not guarantee any benefits to a recipient under this Law.
190 [10 O.C. 1001.6-1]. The Law clarifies that benefits shall not be treated as a resource or asset of a
191 recipient for any purpose; and that no recipient shall have an interest in or right to any funds budgeted
192 for, or set aside for, approved programs until paid. *Id.* The Oneida Business Committee reserves the
193 right to cancel, adjust, modify or revoke any benefit. [10 O.C. 1001.6-2]. The approved programs shall

194 be administered at all times to avoid triggering of the doctrines of “constructive receipt” and/or
195 “economic benefit.” [10 O.C. 1001.6-3].

196 ■ **Effect.** This section clarifies that recipient is not guaranteed benefits under the Law, and that a
197 recipient should not treat the potential benefit as a resource or an asset until that asset is actually
198 paid out to the recipient.

199 **E. Governing Law; Sovereignty.** The Law confirms the Nation’s sovereign status by providing that the
200 rights and liabilities associated with the enactment of this law, or any assistance made as a result, shall
201 be construed and enforced according to the Nation’s laws and applicable federal law. [10 O.C. 1001.7-
202 1]. The Law, or any related laws, policies, or procedures adopted for its implementation shall not be
203 construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to
204 the Nation, or from which the Nation is entitled to exemption because of its sovereign status. *Id.*

205 ■ **Effect.** The Nation is considered sovereign, meaning it has the authority to govern itself. This
206 section of the Law confirms that the Nation maintains that sovereign status through the adoption of
207 this Law, and the Nation is not subject to any laws or regulations which are otherwise inapplicable
208 to the Nation.

209 **F. Federal Trust Obligations.** The Law provides that the Nation has the right to provide assistance in
210 circumstances where federal funding is insufficient to operate federal programs designed to benefit
211 applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust
212 obligations. [10 O.C. 1001.8-1]. This does not mean that the Nation’s adoption of its approved
213 programs is intended to relieve or diminish the federal government of its funding and trust
214 responsibilities. *Id.*

215 ■ **Effect.** This section provides that although the Nation may provide assistance in circumstances
216 where federal funding is insufficient to operate federal programs designed to benefit applicants,
217 this does not negate the federal government’s trust responsibilities to fund this program. This also
218 does not affect the Nation’s right to seek funding, or the right to engage in government-to-
219 government consultations and coordination regarding these rights.

220

221 **SECTION 6. EXISTING LEGISLATION**

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

223 ■ **Garnishment Law.** The Garnishment law allows the Nation to exercise its authority to provide an
224 effective mechanism for creditors to access an employee’s income for reduction of personal debt.
225 [2 O.C. 204.1-1]. Garnishment of an individual’s income to collect debt owed to an entity of the
226 Nation is allowed under the Garnishment law. [2 O.C. 204.6].

227 ■ Assistance provided to a member through an approved program is not subject to
228 garnishment under the Garnishment law. [10 O.C. 1001.5-5].

229 ■ **Per Capita Law.** The Per Capita law specifies the procedure to be followed in the event that per
230 capita payments are distributed by the Nation and states the responsibilities of the various Oneida
231 entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The
232 Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt
233 owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].

234 ■ Assistance provided through an approved program is not a per capita payment.
235 Assistance provided to a member through an approved program is not subject to
236 attachment under the Per Capita law. [10 O.C. 1001.5-5].

237

238 **SECTION 7. OTHER CONSIDERATIONS**

239 **A. *Deadline for Permanent Adoption of Legislation.*** The emergency amendments to this Law will expire
240 on February 10, 2022. The emergency amendments to this Law were already extended for an additional
241 six (6) month period through the adoption of resolution of BC-07-28-21-M so there is no more
242 opportunity to extend these emergency amendments.

243 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
244 adoption of this Law on a permanent basis prior to February 10, 2022.

245 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
246 legislation except emergency legislation [*1 O.C. 109.6-1*]. Oneida Business Committee resolution BC-
247 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
248 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
249 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
250 completing the fiscal impact statement.

251 ▪ *Conclusion.* The Legislative Operating Committee will need to direct that a fiscal impact statement
252 be completed for the proposed Law.

253

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
1001.2. Adoption, Amendment, Repeal
1001.3. Definitions
1001.4. General Welfare Assistance
1001.5. Approved Program Guidelines
1001.6. Non-Recourse Designation
1001.7. Governing Law; Sovereignty
1001.8. Federal Trust Obligations

1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to ~~provide~~govern how the Nation provides 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.~~(a) 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~~2. *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-02-10-21-B~~.

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.

37 **1001.3. Definitions**

38 1001.3-1. This section shall govern the definitions of words and phrases used within this law. All
39 words not defined herein shall be used in their ordinary and everyday sense.

40 (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 ~~through an approved program to a recipient shall be treated as a General Welfare Exclusion. The~~
52 ~~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) (d) "Limited term" means a defined start and end date, or utilizes third-party funding~~
79 ~~and is not intended to be permanent.~~

80 ~~(e) "Member" means an individual who is an enrolled member of the Nation.~~

81 ~~(f) "Nation" means the Oneida Nation.~~

82 ~~(ig) "Recipient" means any Tribal member entitled to receive assistance in accordance~~

83 with approved program requirements.

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

85
86 **1001.4. General Welfare Assistance**

87 1001.4-1. General. The Nation may provide general welfare assistance to eligible members on a
88 non-taxable basis pursuant to the principles of General Welfare Exclusion. The federal government
89 recognizes that benefits to recipients under an approved program for the promotion of the general
90 welfare of the Nation is excludable from the gross income of those recipients. General Welfare
91 Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as
92 it:

93 (a) satisfies the requirements for exclusion under 26 U.S.C. §139E;

94 (b) is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-
95 35 or subsequent Internal Revenue Service procedures or regulations; or

96 (c) meets the criteria of the General Test under the I.R.S. General Criteria of General
97 Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

98 1001.4-2. General Test. The General Test provides criteria used to determine if any assistance
99 provided through an approved program to a recipient shall be treated as a General Welfare
100 Exclusion. The criteria of the General Test include the following:

101 (a) The assistance is paid on behalf of the Nation;

102 (b) The assistance was provided pursuant to an approved program;

103 (c) The assistance does not discriminate in favor of members of the governing body of the
104 Nation;

105 (d) The assistance is available to any member who meets the guidelines of the approved
106 program;

107 (e) The assistance is provided for the promotion of general welfare;

108 (f) The assistance is not lavish or extravagant;

109 (g) The assistance is not compensation for services; and

110 (h) The assistance is not a per capita payment.

111 1001.4-3. Approved Programs. Any assistance provided by the Nation under the General Welfare
112 Exclusion shall occur through an approved program and qualify as non-taxable under the principles
113 of the General Welfare Exclusion to the fullest extent permitted at law.

114 (a) An approved program shall be established and operated to promote the general welfare
115 of the Nation, including programs designed to enhance the promotion of health, education,
116 self-sufficiency, self-determination, and the maintenance of culture and tradition,
117 entrepreneurship, and employment.

118 (b) Each approved program shall be limited to purposes consistent with treatment under
119 the General Welfare Exclusion as to purpose, eligibility, and funding.

120 (d) An approved program shall meet all criteria of the General Test.

121 (d) Assistance provided through an approved program is not subject to information
122 reporting by the Nation to the Internal Revenue Service.

123 **1001.4-4. Ratification of Prior Acts**

124 ~~1001.4-1.~~ This law ~~is~~shall not ~~to~~ be construed as creating new general welfare assistance rights
125 which are an inherent right of Nation. Rather, this law is intended to codify existing procedures
126 used by the Nation to administer its general welfare assistance.

127 ~~1001.4-2.~~ Assistance provided prior to the enactment of this law is hereby ratified and confirmed
128 as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal

129 sovereignty.

130
131 **1001.5. Approved Program Guidelines General Welfare Doctrine and IRS Revenue**
132 **Procedure 2014-53/ Tribal General Welfare Exclusion of 2014**

133 1001.5-1. ~~The federal government recognizes that benefits to recipients under an approved~~
134 ~~program for the promotion of the general welfare of the Nation is excludable from the gross income~~
135 ~~of those recipients.~~

136 Creation of an Approved Program. An approved program shall be adopted by the Oneida Business
137 Committee~~1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35,~~
138 listed and detailed examples of Safe Harbors resolution or law of the Nation. Approved programs
139 under which, if approved adopted by the Oneida Business Committee are considered in force and
140 effect and in writing, need would be presumed, and benefits would be excluded from gross income.
141 ~~1001.5-3. Benefits authorized by accordance with this law are intended to qualify non-taxable~~
142 ~~under~~

143 (a) Law. An approved program shall be adopted by the Oneida Business Committee
144 through a law if the principles approved program will function on a permanent basis.

145 (1) Adoption of an approved program by the Oneida Business Committee through
146 a law of the Nation shall comply with the process and procedures of the Legislative
147 Procedures Act.

148 (b) Resolution. An approved program shall be adopted by the Oneida Business Committee
149 through a resolution if the approved program will function for a limited term.

150 (1) An approved program to be considered for adoption through resolution by the
151 Oneida Business Committee shall be accompanied by a statement of effect and
152 submitted in accordance with the Oneida Business Committee's submission
153 procedure and deadlines.

154 (c) Contents of Proposed Approved Programs. The law or resolution establishing an
155 approved program shall contain the following information:

- 156 (1) Name of the approved program;
157 (2) Purpose of the approved program;
158 (3) Eligibility rules and limitations for approved program;
159 (4) Funding source for approved program;
160 (5) How the approved program qualifies for General Welfare Exclusion; and
161 (6) Start and end date of approved program, if applicable.

162 1001.5-2. Eligibility. Assistance provided by an approved program shall be limited to members
163 of the Nation. Each approved program shall set forth any specific eligibility rules and limitations
164 applied to the fullest extent permitted at law that program.

165 ~~1001.5-4.3. Funding of Approved Programs.~~ Assistance authorized by this law shall be limited
166 to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source
167 of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the
168 Nation until payments are disbursed. The Oneida Business Committee shall designate approved
169 programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this
170 law. Approved programs may also be funded through third-party funding if available.

171 ~~1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue~~
172 ~~Service.~~

173 ~~1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:~~

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

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

177 (c) ~~Benefits that qualify for exclusion~~1001.5-4. *Use of Assistance.* All assistance provided
178 through an approved program shall be used for the purpose stated in the approved program
179 description. If assistance is used or pledged for a purpose inconsistent with the purpose set forth
180 in an approved program the payment shall be deemed forfeited. ~~The Nation may secure repayment~~
181 ~~from any recipient who forfeited their assistance.~~

182 1001.5-5. *Anti-Alienation.* Assistance provided to a member through an approved program shall
183 not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance,
184 attachment or garnishment by creditors of the member.

185 ~~under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc.~~
186 ~~2014-35, section 5.02(1).~~

187 1001.6. Non-Recourse Designation

188 1001.6-1. The Nation does not guarantee ~~benefits~~assistance under this law. ~~Benefits~~Assistance
189 shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have
190 an interest in or right to any funds budgeted for, or set aside for, approved programs until paid.

191 1001.6-2. ~~The~~ Oneida Business Committee reserves the right to cancel, adjust, modify or revoke
192 any benefit. ~~The approved~~

193 1001.6-3. ~~Approved~~ programs shall be administered at all times to avoid triggering of the doctrines
194 of “constructive receipt” ~~and~~/or “economic benefit.”

195 1001.7. Governing Law; Sovereignty

196 1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance
197 made hereunder, shall be construed and enforced according to the Nation’s laws and applicable
198 federal law. Nothing in this law or the related laws, policies, or procedures adopted for its
199 implementation, if any, shall be construed to make applicable to the Nation any laws or regulations
200 which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption
201 because of its sovereign status.

202 1001.8. Federal Trust Obligations

203 1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal
204 funding is insufficient to operate federal programs designed to benefit applicants and when federal
205 funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation’s
206 adoption of its approved programs is not intended to relieve or diminish the federal government of
207 its funding and trust responsibilities. Nothing herein shall waive the Nation’s right to seek funding
208 shortfalls or to enforce the trust rights of the Nation and its ~~citizens~~members. The Nation shall be
209 entitled to government-to-government consultation and coordination with the federal government
210 ~~in regard to~~regarding these obligations.

211 1001.9. ~~Approved Program Guidelines~~

212 ~~1001.9-1. Nation Approved Programs.~~ The Oneida Business Committee shall designate approved
213 programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this
214 law. ~~Each approved program shall be consistent with the principles of the General Welfare~~
215 ~~Exclusion as to purpose, eligibility, and funding.~~

216 ~~1001.9-2. Purpose of Approved Programs.~~ Each approved program shall be limited to purposes

221 consistent with treatment under the General Welfare Exclusion. An approved program shall be
222 established and operated to promote the general welfare of the Nation, including programs
223 designed to enhance the promotion of health, education, self sufficiency, self determination, and
224 the maintenance of culture and tradition, entrepreneurship, and employment.

225 ~~1001.9 3. Eligibility.~~ Assistance intended to qualify under the General Welfare Exclusion shall
226 be limited to Tribal members. Each approved program shall set forth the specific eligibility rules
227 and limitations applied to that program. Programs comprising descriptions, including eligibility
228 rules and limitations, may be presented to the Oneida Business Committee for approval in
229 accordance with this law. Programs shall be approved by the Oneida Business Committee to be
230 considered in force and effect and in accordance with this law.

231 ~~1001.9 4. Limited Use of Assistance Payments.~~ All assistance shall be used for the purpose stated
232 in the approved program description. ~~If assistance is used or pledged for a purpose inconsistent~~
233 ~~with the purpose set forth in an approved program the payment shall be deemed forfeited.~~ The
234 Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration
235 from other payments made to recipient to secure repayment of assistance under this law.

236 ~~1001.9 5. Anti-Alienation.~~ A Tribal member's benefit is not subject to anticipation, alienation,
237 sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the
238 Tribal member.

239
240 *End.*

241
242
243
244 Emergency Adopted ~~--~~ BC-08-12-20-D
245 Emergency Amended – BC-02-10-21-B
246 Emergency ~~Extension~~Extended – BC-07-28-21-M
247 ~~Adopted – BC- - - -~~

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. General Welfare Assistance
1001.5. Approved Program Guidelines

1001.6. Non-Recourse Designation
1001.7. Governing Law; Sovereignty
1001.8. Federal Trust Obligations

1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion.

(a) 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 members under certain circumstances on a non-taxable basis.

1001.1-2. *Policy.* It is the policy of the Nation to provide assistance to 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 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 by resolution BC-__-__-__-__.

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

1001.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1001.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

1001.3. Definitions

1001.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution

42 or law of the Nation.

43 (b) "Assistance" means benefits or payments under an approved program, which are paid
44 to or on behalf of a recipient pursuant to this law.

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

51 (d) "Limited term" means a defined start and end date, or utilizes third-party funding and
52 is not intended to be permanent.

53 (e) "Member" means an individual who is an enrolled member of the Nation.

54 (f) "Nation" means the Oneida Nation.

55 (g) "Recipient" means any member entitled to receive assistance in accordance with
56 approved program requirements.

57
58 **1001.4. General Welfare Assistance**

59 1001.4-1. *General.* The Nation may provide general welfare assistance to eligible members on a
60 non-taxable basis pursuant to the principles of General Welfare Exclusion. The federal government
61 recognizes that benefits to recipients under an approved program for the promotion of the general
62 welfare of the Nation is excludable from the gross income of those recipients. General Welfare
63 Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as
64 it:

65 (a) satisfies the requirements for exclusion under 26 U.S.C. §139E;

66 (b) is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-
67 35 or subsequent Internal Revenue Service procedures or regulations; or

68 (c) meets the criteria of the General Test under the I.R.S. General Criteria of General
69 Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

70 1001.4-2. *General Test.* The General Test provides criteria used to determine if any assistance
71 provided through an approved program to a recipient shall be treated as a General Welfare
72 Exclusion. The criteria of the General Test include the following:

73 (a) The assistance is paid on behalf of the Nation;

74 (b) The assistance was provided pursuant to an approved program;

75 (c) The assistance does not discriminate in favor of members of the governing body of the
76 Nation;

77 (d) The assistance is available to any member who meets the guidelines of the approved
78 program;

79 (e) The assistance is provided for the promotion of general welfare;

80 (f) The assistance is not lavish or extravagant;

81 (g) The assistance is not compensation for services; and

82 (h) The assistance is not a per capita payment.

83 1001.4-3. *Approved Programs.* Any assistance provided by the Nation under the General Welfare
84 Exclusion shall occur through an approved program and qualify as non-taxable under the principles
85 of the General Welfare Exclusion to the fullest extent permitted at law.

86 (a) An approved program shall be established and operated to promote the general welfare
87 of the Nation, including programs designed to enhance the promotion of health, education,

88 self-sufficiency, self-determination, and the maintenance of culture and tradition,
89 entrepreneurship, and employment.

90 (b) Each approved program shall be limited to purposes consistent with treatment under
91 the General Welfare Exclusion as to purpose, eligibility, and funding.

92 (d) An approved program shall meet all criteria of the General Test.

93 (d) Assistance provided through an approved program is not subject to information
94 reporting by the Nation to the Internal Revenue Service.

95 1001.4-4. *Ratification of Prior Acts.* This law shall not be construed as creating new general
96 welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to
97 codify existing procedures used by the Nation to administer its general welfare assistance.
98 Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general
99 welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

100 **1001.5. Approved Program Guidelines**

101 1001.5-1. *Creation of an Approved Program.* An approved program shall be adopted by the
102 Oneida Business Committee through a resolution or law of the Nation. Approved programs
103 adopted by the Oneida Business Committee are considered in force and effect and in accordance
104 with this law
105

106 (a) *Law.* An approved program shall be adopted by the Oneida Business Committee
107 through a law if the approved program will function on a permanent basis.

108 (1) Adoption of an approved program by the Oneida Business Committee through
109 a law of the Nation shall comply with the process and procedures of the Legislative
110 Procedures Act.

111 (b) *Resolution.* An approved program shall be adopted by the Oneida Business Committee
112 through a resolution if the approved program will function for a limited term.

113 (1) An approved program to be considered for adoption through resolution by the
114 Oneida Business Committee shall be accompanied by a statement of effect and
115 submitted in accordance with the Oneida Business Committee's submission
116 procedure and deadlines.

117 (c) *Contents of Proposed Approved Programs.* The law or resolution establishing an
118 approved program shall contain the following information:

119 (1) Name of the approved program;

120 (2) Purpose of the approved program;

121 (3) Eligibility rules and limitations for approved program;

122 (4) Funding source for approved program;

123 (5) How the approved program qualifies for General Welfare Exclusion; and

124 (6) Start and end date of approved program, if applicable.

125 1001.5-2. *Eligibility.* Assistance provided by an approved program shall be limited to members
126 of the Nation. Each approved program shall set forth any specific eligibility rules and limitations
127 applied to that program.

128 1001.5-3. *Funding of Approved Programs.* Assistance authorized by this law shall be limited to
129 funds appropriated, at the discretion of the Oneida Business Committee and no matter the source
130 of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the
131 Nation until payments are disbursed. The Oneida Business Committee shall designate approved
132 programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this
133 law. Approved programs may also be funded through third-party funding if available.

134 1001.5-4. *Use of Assistance.* All assistance provided through an approved program shall be used
135 for the purpose stated in the approved program description. If assistance is used or pledged for a
136 purpose inconsistent with the purpose set forth in an approved program the payment shall be
137 deemed forfeited. The Nation may secure repayment from any recipient who forfeited their
138 assistance.

139 1001.5-5. *Anti-Alienation.* Assistance provided to a member through an approved program shall
140 not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance,
141 attachment or garnishment by creditors of the member.
142

143 **1001.6. Non-Recourse Designation**

144 1001.6-1. The Nation does not guarantee assistance under this law. Assistance shall not be treated
145 as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or
146 right to any funds budgeted for, or set aside for, approved programs until paid.

147 1001.6-2. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke
148 any benefit.

149 1001.6-3. Approved programs shall be administered at all times to avoid triggering of the doctrines
150 of “constructive receipt” or “economic benefit.”
151

152 **1001.7. Governing Law; Sovereignty**

153 1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance
154 made hereunder, shall be construed and enforced according to the Nation’s laws and applicable
155 federal law. Nothing in this law or the related laws, policies, or procedures adopted for its
156 implementation, if any, shall be construed to make applicable to the Nation any laws or regulations
157 which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption
158 because of its sovereign status.
159

160 **1001.8. Federal Trust Obligations**

161 1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal
162 funding is insufficient to operate federal programs designed to benefit applicants and when federal
163 funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation’s
164 adoption of its approved programs is not intended to relieve or diminish the federal government of
165 its funding and trust responsibilities. Nothing herein shall waive the Nation’s right to seek funding
166 shortfalls or to enforce the trust rights of the Nation and its members. The Nation shall be entitled
167 to government-to-government consultation and coordination with the federal government
168 regarding these obligations.
169

170 *End.*

171

173 Emergency Adopted – BC-08-12-20-D
174 Emergency Amended – BC-02-10-21-B
175 Emergency Extended – BC-07-28-21-M
176 Adopted – BC-__-__-__-__