



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

October 20, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. October 6, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Pardon and Forgiveness Law Emergency Amendments Extension (pg. 4)
2. Oneida General Welfare Law (pg. 20)

IV. New Submissions

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
October 6, 2021
9:00 a.m.

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

Others Present: Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill, Brooke Doxtator, Lawrence Barton, Amy Spears (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Eric Boulanger (Microsoft Teams), Michelle Braaten (Microsoft Teams), Kelly McAndrews (Microsoft Teams), Renita Hernandez (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the October 6, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda as is; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be Approved

1. September 15, 2021 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the September 15, 2021 LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Local Land Use Regulation Reimbursement Policy Repeal

Motion by Marie Summers to accept the public comment review memorandum; seconded by Jennifer Webster. Motion carried unanimously.

2. Furlough Law Amendments

Motion by Marie Summers to approve the Furlough law amendments public comment period notice and forward the Furlough law amendments to a public comment period to be held open until November 11, 2021; seconded by Jennifer Webster. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

VII. Executive Session



VIII. Adjourn

Motion by Marie Summers to adjourn at 9:18 a.m.; seconded by Daniel Guzman King.
Motion carried unanimously.



Legislative Operating Committee
October 20, 2021

Pardon and Forgiveness Law Emergency Amendments Extension

| | |
|----------------------------------|---|
| Submission Date: 4/7/21 | Public Meeting: n/a |
| LOC Sponsor: David Jordan | Emergency Enacted: 4/28/21 Expires: 10/28/21 |

Summary: *This item was added to the Active Files List on April 21, 2021, per the directive of the Oneida Business Committee to develop emergency amendments to section 126.8 of the Pardon and Forgiveness law to allow a virtual hearing to be scheduled as soon as possible regarding the existing applications to avoid further delay for the April 28, 2021 Oneida Business Committee meeting. The Oneida Business Committee adopted the emergency amendments to the Pardon and Forgiveness law on April 28, 2021, through resolution BC-04-28-21-A. The emergency adoption of the amendments to the Pardon and Forgiveness law are set to expire on October 28, 2021.*

4/14/21 OBC: Motion by Jennifer Webster to direct the Legislative Operating Committee to develop emergency amendments to 126.8 of the Pardon and Forgiveness law to allow a virtual hearing to be scheduled as soon as possible regarding the existing applications to avoid further delay for the April 28, 2021 Oneida Business Committee meeting.

4/21/21 LOC: Motion by Jennifer Webster to add the Pardon and Forgiveness law emergency amendments to the Active Files List with Jennifer Webster as the sponsor; Seconded by Marie Summers. Motion carried unanimously.

4/28/21 OBC: Motion by Jennifer Webster to adopt resolution entitled Emergency Amendments to the Pardon and Forgiveness Law; Seconded by Marie Summers. Motion carried.

Next Steps:

- Approve the Pardon and Forgiveness Law Emergency Amendments Extension packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson
DATE: October 20, 2021
RE: Extension of the Pardon and Forgiveness Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the extension of the Pardon and Forgiveness Law Emergency Amendments:

1. Resolution: Extension of the Emergency Amendments to the Pardon and Forgiveness Law
2. Statement of Effect: Extension of the Emergency Amendments to the Pardon and Forgiveness Law
3. Pardon and Forgiveness Law

Overview

Emergency amendments to the Nation's Pardon and Forgiveness law ("Law") were adopted by the Oneida Business Committee ("OBC") through resolution BC-04-28-21-A to address the impact that the COVID-19 pandemic was having on the ability of the Pardon and Forgiveness Screening Committee ("PFSC") to process, as well as conduct hearings, on applications for a pardon or forgiveness in a fair and efficient manner as is required under the Law. Previously, the Law only allowed for hearings on applications for a pardon or forgiveness to be conducted in-person, at a location to be determined by the PFSC. The emergency amendments added an option for the PFSC to conduct hearings virtually when deemed necessary. [1 O.C. 126.8-1(a)].

The OBC can temporarily enact legislation when 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 ("LPA"). [1 O.C. 109.9-5].

On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" in response to the COVID-19 pandemic, which declared a Public Health State of Emergency until April 12, 2020 and set into place the necessary authority should action need to be taken, as well as allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses as a result thereof. [3 O.C. 302.8-1]. The Public Health State of Emergency has since been extended by the OBC until November 25, 2021, through its adoption of 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, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N and BC-09-22-21-A. [3 O.C. 302.8-2].

The emergency amendments to the Law were necessary for the preservation of the general welfare of the Reservation population. By allowing the PFSC to hold hearings on applications for a pardon or forgiveness virtually, instead of just in-person as was previously the only option, it eliminates any unnecessary contact between individuals who could spread the COVID-19 virus, while still affording individuals the fair and efficient process guaranteed under the Law to seek a pardon or forgiveness from the Nation.

Additionally, observance of the requirements under the LPA for the adoption of the emergency amendments was contrary to the public interest. The PFSC was placed back into active status through adoption of resolution BC-11-24-20-C. While inactive, however, the PFSC received three (3) applications for a pardon or forgiveness that had yet to be processed or set for hearing. Since, at the time, the Nation's Public Health State of Emergency was not set to expire until May 12, 2021, and with applications for a pardon or forgiveness already pending, as well as more submissions likely, the process and requirements of the LPA could not be completed in time to ensure applicants received the fair and efficient avenue required under the Law to seek a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

The emergency amendments to the Law will expire on October 28, 2021. The LPA allows the OBC to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law is being requested because the Nation is still experiencing the effects of the COVID-19 pandemic.

In addition to the Nation continuing to be under a Public Health State of Emergency until at least November 25, 2021, on August 3, 2021, the OBC adopted resolution BC-08-03-21-A titled, *Setting Public Gathering Guidelines During Public Health State of Emergency – COVID-19*, to prohibit indoor and outdoor public gatherings when the COVID-19 infections rates in Brown or Outagamie Counties exceed "Low" as identified by the Wisconsin Department of Health Services. According to the Wisconsin Department of Health Services, as of date, the infection rates within Brown and Outagamie Counties exceed the threshold of "Low" thereby prohibiting any indoor and outdoor public gatherings within the Reservation, and thus, would preclude hearings on applications for a pardon or forgiveness absent the emergency amendments that allow for hearings to be conducted virtually, as well as in-person.

The extension of the emergency amendments to the Law will become effective on October 28, 2021, when the emergency amendments as adopted by resolution BC-04-28-21-A expire and will remain in effect for an additional six (6) month term which will end on April 28, 2022. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

Requested Action

Adopt the Resolution: Extension of the Emergency Amendments to the Pardon and Forgiveness Law.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Extension of the Emergency Amendments to the Pardon and Forgiveness Law

WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and

WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and

WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and

WHEREAS, the Pardon and Forgiveness law ("Law") was adopted by the Oneida Business Committee through resolution BC-05-25-11-A, amended by resolution BC-01-22-14-B, and most recently amended on an emergency basis by resolution BC-04-28-21-A; and

WHEREAS, the purpose of the Law is to provide a fair, efficient and formal process by which: (1) a member of the Nation may receive a pardon for the conviction of a crime; (2) a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and (3) a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation; and

WHEREAS, section 126.4-1 of the Law establishes a Pardon and Forgiveness Screening Committee ("PFSC") to carry out various responsibilities that include, but are not limited to: processing applications for a pardon or forgiveness; conducting, as well as presiding over, hearings on the applications; and providing formal, written recommendations to the Oneida Business Committee on whether to approve or deny requests for a pardon or forgiveness; and

WHEREAS, on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" in response to the COVID-19 outbreak, which declared a Public Health State of Emergency for the Nation until April 12, 2020 and set into place the necessary authority for the Nation to take action, as well as seek reimbursement of emergency management actions that may result in unexpected expenses; and

WHEREAS, the Nation's Public Health State of Emergency has since been extended by the Oneida Business Committee until November 25, 2021, through its adoption of 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, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A; and

WHEREAS, the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis 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; and

- 45 **WHEREAS,** the Oneida Business Committee adopted emergency amendments to the Law through
46 resolution BC-04-28-21-A; and
47
- 48 **WHEREAS,** the emergency amendments to the Law added an option, along with a process, to allow for
49 the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead
50 of just in-person as was previously the only option available under the Law; and
51
- 52 **WHEREAS,** the Oneida Business Committee determined that emergency adoption of the amendments
53 was necessary for the preservation of the public health, safety, and general welfare of the
54 Reservation population because it protected the Reservation population from the public
55 health crisis that is COVID-19, by providing a virtual option that eliminates unnecessary
56 contact between individuals who may have been exposed to or could spread the virus,
57 while still affording individuals a fair and efficient process to seek a pardon or forgiveness,
58 which could assist them in becoming a more productive member of society; and
59
- 60 **WHEREAS,** the Oneida Business Committee further determined that observance of the requirements
61 under the Legislative Procedures Act for adoption of the emergency amendments was
62 contrary to the public interest since the Public Health State of Emergency had yet to expire
63 such that, with applications already pending and more submissions likely, the process and
64 requirements of the Legislative Procedures Act could not be completed in time to ensure
65 applicants received the fair and efficient procedure required under the Law for seeking a
66 pardon or forgiveness without unnecessarily exposing them, as well as the public, to the
67 risks associated with the COVID-19 virus; and
68
- 69 **WHEREAS,** the emergency amendments to the Law will expire on October 28, 2021, unless extended
70 for an additional six (6) month period by the Oneida Business Committee in accordance
71 with the Legislative Procedures Act; and
72
- 73 **WHEREAS,** a six (6) month extension of the emergency amendments to the Law is being requested
74 because the Nation is still experiencing the effects of the COVID-19 pandemic; and
75
- 76 **WHEREAS,** in addition to the Nation extending the Public Health State of Emergency until at least
77 November 25, 2021, the Nation recently adopted resolution BC-08-03-21-A titled, *Setting*
78 *Public Gathering Guidelines During Public Health State of Emergency – COVID-19*, which
79 prohibits indoor and outdoor public gatherings when the COVID-19 infection rates in Brown
80 or Outagamie Counties exceed “Low” as identified by the Wisconsin Department of Health
81 Services; and
82
- 83 **WHEREAS,** according to the Wisconsin Department of Health Services, as of date, the infection rates
84 within Brown and Outagamie Counties exceed the threshold of “Low”, thereby prohibiting
85 any indoor and outdoor public gatherings within the Reservation, and thus, precluding
86 hearings on applications for a pardon or forgiveness for an unreasonable amount of time
87 absent the emergency amendments that allow for such hearings to be conducted virtually,
88 as well as in-person; and
89
- 90 **WHEREAS,** the extension of the emergency amendments to the Law will become effective on October
91 28, 2021, when the emergency amendments as adopted by resolution BC-04-28-21-A
92 expire, and will remain in effect for an additional six (6) month term which will end on April
93 28, 2022; and
94
- 95 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
96 when considering emergency legislation; and
97

98 **NOW THEREFORE BE IT RESOLVED**, that the emergency amendments to the Pardon and Forgiveness
99 law are hereby extended for an additional six (6) months, effective October 28, 2021, and shall expire April
100 28, 2022.



Statement of Effect

Extension of the Emergency Amendments to the Pardon and Forgiveness Law

Summary

This resolution extends the emergency amendments to the Pardon and Forgiveness law, as adopted through resolution BC-04-28-21-A, for an additional six (6) months in accordance with the Legislative Procedures Act.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: October 20, 2021

Analysis by the Legislative Reference Office

This resolution extends the emergency amendments to the Pardon and Forgiveness law (“Law”) for an additional six (6) month term. The purpose of the Law is to provide a fair, efficient and formal process by which: (1) a member of the Nation may receive a pardon for the conviction of a crime; (2) a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; (3) a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation. [1 O.C. 126.1-1].

Section 126.4-1 of the Law establishes a Pardon and Forgiveness Screening Committee (“PFSC”) to carry out various responsibilities, including, but not limited to: processing applications for a pardon or forgiveness; conducting, as well as presiding over, hearings on the applications; and providing formal, written recommendations to the Oneida Business Committee on whether to approve or deny requests for a pardon or forgiveness. [1 O.C. 126.4-1].

Emergency amendments to the Law were adopted by the Oneida Business Committee on April 28, 2021, to add an option, along with a process, that allows for the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of just in-person as was previously the only option available under the Law. [1 O.C. 126.8-1(a)].

The Legislative Procedures Act (“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].

In early 2020, the world began experiencing the effects of the COVID-19 pandemic. In response to the pandemic, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*,” per the Emergency Management law, to set into place the necessary authority for the Nation to take action, if necessary, and to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Nation’s

Public Health State of Emergency has since been extended by the Oneida Business Committee until November 25, 2021, through its adoption of 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, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-A. [3 O.C. 302.8-2].

The Oneida Business Committee determined that the emergency amendments to the Law were necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments were needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. By allowing the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person, eliminates unnecessary contact between individuals who may have been exposed to the COVID-19 virus, while still affording individuals a fair and efficient process to seek a pardon or forgiveness.

The Oneida Business Committee further determined that observance of the requirements under the LPA for adoption of the emergency amendments was contrary to the public interest since the Public Health State of Emergency had yet to expire such that, with applications pending, as well as more submissions likely, the process and requirements of the LPA could not be completed in time to ensure applicants received the fair and efficient procedure required under the Law for seeking a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

The emergency amendments to the Law became effective immediately upon adoption by the Oneida Business Committee and are set to expire on October 28, 2021. The LPA authorizes the Oneida Business Committee to extend the adoption of emergency amendments for an additional six (6) month period. [1 O.C. 109.9-5(b)].

An extension of the emergency amendments to the Law is being requested because the Nation is still experiencing the effects of the COVID-19 pandemic. Through this resolution, the extension of the emergency amendments to the Law will become effective on October 28, 2021, when the emergency amendments as adopted by resolution BC-04-28-21-A expire and will remain in effect for an additional six (6) month term, which will end on April 28, 2022. The LPA does not require a public meeting or fiscal impact statement when considering emergency legislation.

Conclusion

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

Title 1. Government and Finances - Chapter 126**PARDON AND FORGIVENESS****Tsiʔnáhte Ahutatwani-yóne Olihwa'ke***of what they will be free of matter*

126.1. Purpose and Policy

126.2. Adoption, Amendment, Conflicts

126.3. Definitions

126.4. Pardon and Forgiveness Screening Committee

Responsibilities

126.5. Tribal Secretary's Office Responsibilities

126.6. Pardon and Forgiveness Eligibility and Application

126.7. Fees

126.8. Hearings

126.9. Conditions and Restrictions

126.10. Oneida Business Committee

126.1. Purpose and Policy**126.1-1. Purpose.**

(a) The purpose of this Law is to provide a fair, efficient and formal process by which:

(1) a Tribal member may receive a pardon for the conviction of a crime(s); or

(2) a Tribal member may receive forgiveness for acts that render him or her ineligible for housing with the Tribe or other Tribal benefits.

(3) a Tribal member or non-Tribal member may receive forgiveness for acts that render him or her ineligible for Tribal employment; an occupational license, certification or permit issued by the Tribe; housing through the Tribe; or other Tribal benefit.

(b) This Law defines the duties and responsibilities of the Oneida Pardon and Forgiveness Screening Committee, Oneida Business Committee, Oneida Tribal Secretary's Office, and other persons involved in the granting or denial of pardons and forgiveness.

126.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to grant pardons or forgiveness to individuals upon demonstration of full rehabilitation, trustworthiness and/or commitment to lawful behavior. Nothing contained herein shall be construed as permitting the employment of individuals who are otherwise disqualified for employment from certain occupations under Tribal, State or Federal Law. Receipt of a pardon or forgiveness does not affect obligations imposed as part of a sentence or conviction in another jurisdiction.

126.2. Adoption, Amendment, Conflicts

126.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-25-11-A, amended by resolution BC-01-22-14-B, and emergency amended by resolution BC-__-__-__.

126.2-2. This Law may be amended pursuant to the procedures set out in Tribal law by the Oneida Business Committee or the Oneida General Tribal Council.

126.2-3. 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.

126.2-4. In the event of a conflict between a provision of this Law and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this Law shall control. Provided that, this Law repeals Resolution BC-7-31-02-A: Resolution Adopting a New Oneida Pardon Ordinance.

126.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

126.3. Definitions

Consideration of the Extension of Emergency Amendments by the Oneida Business Committee
2021 10 20

126.3-1. 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" shall mean an individual who is applying for a pardon or forgiveness from the Tribe.

(b) "Certified mail" shall mean mail sent through either the United States Postal Service or the Tribal Inter-Office Certified system that provides proof of delivery and receipt.

(c) "Committee" shall mean the Pardon and Forgiveness Screening Committee.

(d) "Conditions" shall mean a requirement or prerequisite event or activity.

(e) "Conflict of interest" shall mean a conflict between the private interests and the official responsibilities of the committee member.

(f) "Conviction" shall mean an individual was either found guilty or entered a plea of guilty or no contest to charges of a crime in any court of competent jurisdiction.

(g) "Court of competent jurisdiction" shall mean any court or forum that has the power and authority to properly exercise jurisdiction over a dispute or interpret and/or enforce laws.

(h) "Crime" shall mean any act, default, or conduct punishable as a felony or a misdemeanor.

(i) "Forgiveness" shall mean the formal and public act of acknowledging or excusing an individual's actions or behavior that makes him or her ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe, housing through the Tribe or other Tribal benefit

(j) "Hearing" shall mean a publicly noticed hearing, conducted either in-person or virtually, in which an applicant is afforded an opportunity to present a case for obtaining a pardon or forgiveness from the Nation.

(k) "Individual" shall mean a Tribal member seeking a pardon for a conviction of a crime, a Tribal member seeking forgiveness for an act(s) that makes him or her ineligible for housing with the Tribe or other Tribal benefit(s) or anyone seeking forgiveness for an act(s) that renders him or her ineligible for employment, an occupational license, certification or permit issued by the Tribe.

(l) "Family member" shall mean a spouse, child sibling, parent, grandparent, grandchild, step-parent, step-child, in-law or legal guardian.

(m) "Pardon" shall mean the formal and public act of acknowledging or excusing a Tribal member's criminal conviction that makes him or her ineligible for Tribal employment, an occupational license, a certification or permit issued by the Tribe, housing through the Tribe, or other Tribal benefit.

(n) "Prominent locations" shall include, but not be limited to, the following: the Tribal newspaper; at least one (1) local newspaper with regular distribution within the Reservation boundaries; one (1) regional Indian newspaper; and the Tribe's official website.

(o) "Restriction" shall mean a limitation or constraint imposed.

(p) "Tribal", "Tribe" and/or "Nation" shall mean the Oneida Nation.

(q) "Victim" shall mean a person or entity against whom an offense, either civil or criminal, has been committed.

126.4. Pardon and Forgiveness Screening Committee Responsibilities

126.4-1. A Committee is hereby created for the purpose of carrying out the provisions of this Law.

126.4-2. *Authority.* The Committee shall:

(a) promulgate internal standard operating procedures necessary to govern its proceedings;

- (b) review and process applications for a pardon or forgiveness in an orderly and expeditious manner;
- (c) review an applicant's background investigation report received from the Oneida Human Resources Department;
- (d) conduct and preside over hearings;
- (e) provide formal, written recommendations to the Oneida Business Committee to approve or deny a pardon or forgiveness application; and
- (f) take other actions reasonably related to the purpose of the Committee.

126.5. Tribal Secretary's Office Responsibilities

126.5-1. The Tribal Secretary's Office shall assist the Committee with carrying out the provisions of this Law and assist individuals in applying for a pardon or forgiveness. The Tribal Secretary's Office shall:

- (a) create and implement procedures necessary to process pardon and forgiveness applications.
- (b) accept pardon and forgiveness applications.
- (c) submit and track requests for a background investigation.
- (d) forward pardon and forgiveness applications to the Committee when the background investigations are complete.
- (e) maintain a record of all pardon and forgiveness applications filed, every pardon and forgiveness request granted or denied, and the reasons for each action.
- (f) maintain a complete and accurate record of all proceedings, including all correspondence, transcripts, documents, evidence, and appearances made in connection with the applications.
- (g) perform other duties in connection with matters under this Law as may be requested by the Committee.

126.6. Pardon and Forgiveness Eligibility and Application

126.6-1. *Eligibility.* A Tribal member may receive a pardon for any criminal conviction(s), or a forgiveness for an act(s) that renders the Tribal member ineligible for housing with the Tribe or other Tribal benefit(s); and any individual may receive forgiveness for an act(s) that renders the individual ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe.

- (a) Upon completion of incarceration, parole, probation and/or deferred prosecution, Tribal members shall be eligible to apply for a pardon.
- (b) One (1) year after an act is committed, or affirmed through the conclusion of any appeal process, an individual shall be eligible to apply for pardon or forgiveness.

126.6-2. *Ineligibility.* An individual is ineligible for a pardon or forgiveness if he or she is:

- (a) being investigated for an act and if found to have committed such act, would be ineligible for the benefit he or she is seeking; or
- (b) appealing a termination and the termination makes him or her ineligible for the benefit he or she is seeking; or
- (c) currently incarcerated, on parole, probation, and/or under a deferred prosecution agreement; or
- (d) has any outstanding penalties or fines.

126.6-3. *Initiating an Application.* Applications for a pardon or forgiveness may be obtained from the Tribal Secretary's Office or on the Tribal website. Completed applications shall be filed with

Consideration of the Extension of Emergency Amendments by the Oneida Business Committee
2021 10 20

the Tribal Secretary's Office in person, during normal Tribal business hours, or sent by certified mail to the Tribal Secretary at P.O. Box 365, Oneida, WI 54155.

126.6-4. *Required Application Information.* Each applicant is responsible for submitting all required materials and authorizations.

(a) A completed pardon application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card.
- (2) a copy or copies of any discharge papers from incarceration or jail.
- (3) official verification of any successful completion date of the probation, parole or deferred prosecution.
- (4) any necessary releases for investigations and/or background checks.
- (5) any authorizations from a probation officer to release information.
- (6) the required non-refundable fee as specified under 126.6.
- (7) a personal written statement, including the reason(s) for requesting a pardon and a description and documentation of the applicant's efforts towards self-improvement.
- (8) information regarding the conviction(s) for which the applicant is seeking a pardon, including:
 - (A) date(s) upon which the crime(s) occurred;
 - (B) location(s) where the crime(s) occurred;
 - (C) date(s) of conviction(s); and
 - (D) jurisdiction(s) which imposed the sentence(s).
- (9) verification of attendance or successful completion of any counseling, therapy, or rehabilitative programs such as anger management or coping skills classes.
- (10) letters of reference or support from people well-regarded in the community. Such letters shall detail the applicant's accomplishments or contributions to the community or attest to the applicant's rehabilitation and trustworthiness. These may include, but are not limited to:
 - (A) clergy or other spiritual leaders.
 - (B) employers and/or community members.
 - (C) teachers.
 - (D) organizers of support groups the applicant attends or has attended.
- (11) any other information relevant to the applicant's conviction(s) or rehabilitation efforts.
- (12) proof of payment of all penalties and fines.

(b) A completed forgiveness application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card, if applicable.
- (2) the applicant's employment record prior to the act, if applicable.
- (3) the applicant's background records.
- (4) the act that triggered the applicant's ineligibility.
- (5) the impact of the act on the Tribe.
- (6) the length of time since the act.
- (7) a written statement from the applicant demonstrating remorse for the violation.
- (8) two (2) letters of recommendation, with no more than one (1) recommendation coming from a person who is a family member of the applicant.
- (9) the required non-refundable fee as specified under 126.6.
- (10) any additional credible and relevant information.
- (11) proof of payment of all penalties and fines.

Consideration of the Extension of Emergency Amendments by the Oneida Business Committee
2021 10 20

126.6-5. Failure of the applicant to provide a complete application, or any of the required information and/or materials may result in:

- (a) the application being returned with a request for more information; or
- (b) the application being removed from consideration; or
- (c) denial of a pardon or forgiveness.

126.6-6. *Applicant Misrepresentations.* Any applicant who misrepresents, omits, or falsifies any information on the application or during the pardon process shall be denied a pardon. If a pardon is granted and it is later determined that there is misrepresented or false information, or pertinent information was purposefully omitted, the Oneida Business Committee shall have the right to rescind the pardon.

126.7. Fees

126.7-1. Each application shall be accompanied by a non-refundable fee as set by the Oneida Business Committee in a resolution. Said payment shall be made payable to the Oneida Tribe in the form of a:

- (a) money order; or
- (b) cashier's check; or
- (c) intra-tribal purchase document, if a Tribal department or program, such as Social Services, will be providing the funds for the application fee.

126.8. Hearings

126.8-1. *Hearing.* The Committee shall conduct quarterly hearings on applications for a pardon or forgiveness from the Nation in accordance with this law.

- (a) Hearings may be conducted in person or virtually as determined by the Committee.
- (b) Hearings shall take place at a regularly scheduled time and location or virtual platform, as determined by the Committee, and shall be open to the public to the extent permitted by governing laws of the Nation.

126.8-2. *Hearing Notice.* The Committee shall provide hearing notice as follows:

- (a) *Applicant.* At least thirty (30) calendar days prior to the hearing, the Committee shall provide official hearing notice to the applicant by certified mail, the notice of which shall include:

- (1) The date;
- (2) The time;
- (3) Whether the hearing will be conducted in-person or virtually; and
- (4) The location of or virtual platform for the hearing and, if virtual, instructions on how to access the platform.

- (b) *Public.* The Committee shall provide public notice of hearings as follows:

- (1) By posting the notice in prominent locations at least thirty (30) days prior to the hearing;
 - (A) If alternate arrangements have been made under section 126.8-2 of this law, notice shall be posted in prominent locations with as much advance notice as possible and as time permits.
- (2) By posting notice of the hearings scheduled for the year on the Nation's website and periodically in the Nation's newspaper.

126.8-3. *Alternate Hearing Arrangements.* Applicants who reside out of the State of Wisconsin who are unable to attend a hearing may submit a written request by certified mail to the Tribal Secretary's Office for alternate arrangements to appear by video conference and/or to reschedule

the hearing date. If alternate arrangements are unavailable, the applicant may withdraw the application up to three (3) business days prior to the hearing without penalty, and may re-apply for a pardon at any time.

126.8-4. *Failure to Attend Hearing.* Failure of the applicant to attend the hearing may result in the Committee postponing making a determination on the application or recommending the Oneida Business Committee deny the application.

- (a) Applicants with a legitimate reason for failing to attend a hearing shall have ten (10) calendar days from the date of the missed hearing to provide documentation to the Committee. Such documentation may include, but is not limited to, a Doctor's excuse, accident/police report, or funeral notice.

126.8-5. *Testimony and Notarized Statements.* The Committee shall obtain oral testimony during the hearing from the applicant and any victims, witnesses, or other persons supporting or opposing the pardon or forgiveness.

- (a) Victims, witnesses, and other persons unavailable for a scheduled hearing may submit a notarized statement for consideration.

- (b) The Committee may institute recesses and postponements as they see fit.

- (c) The Committee may ask questions at any time during the hearing.

- (d) The Committee may require the applicant to provide further documentation.

- (1) Within five (5) business days of the hearing, the Committee shall send a written request by certified mail to the applicant for the additional documentation.

- (2) The applicant shall submit the documentation to the Tribal Secretary's Office within thirty (30) calendar days after receiving the request for the documentation.

Failure of the applicant to provide any of the required documentation may result in:

- (A) the application being removed from consideration; or

- (B) denial of the application.

126.8-6. *Deliberations and Recommendation.* After the hearing, the Committee shall go into executive session for deliberations.

- (a) The Committee shall consider all information gathered from the hearing, the application, the background investigation, and any testimony or notarized statements when determining whether to recommend that the application be approved or denied.

- (1) The Committee shall be responsible for weighing the appropriateness of granting a pardon or forgiveness.

- (b) *Recommendation.* After considering the factors provided, the Committee shall make a decision and compose a formal, written recommendation for each application, including reasons to approve or deny the application within sixty (60) days after the pardon or forgiveness hearing. The recommendation, including any dissenting opinions issued by the Committee, shall be forwarded to the Oneida Business Committee within thirty (30) calendar days after making a decision, along with the following materials for review:

- (1) All information from the application and the background investigation;

- (2) Any notarized statements submitted;

- (3) A proposed draft resolution; and

- (4) An audio recording of the hearing, upon request by an Oneida Business Committee member.

126.9. Conditions and Restrictions

126.9-1. *Pardons.* Certain convictions may affect a Tribal member's rights under state or federal law, or result in restrictions being placed on a Tribal member, regardless of whether a Tribal pardon

has been granted.

(a) *Civil Rights*. A pardon by the Tribe does not guarantee the restoration of all civil rights, and each recipient of a Tribal pardon is responsible for determining whether the pardon affects any non-Tribal restrictions or limitations that may be applicable pursuant to the conviction.

(b) *Employment*. Individuals convicted of a crime that is “substantially related” to the care of another person or animal may be subject to extended or permanent restrictions on licensing or professional credentials in fields relating to such caretaking. A Tribal pardon shall not affect these restrictions.

(c) *Sex Offender Registry*. Receipt of a Tribal pardon shall in no way affect registration, tracking or other restrictions or obligations imposed upon sex offenders.

(d) *Voting Rights*. Each state, and the federal government are empowered to determine whether felons may vote in elections, caucuses, referendums or any other venue dependent on the votes of citizenry. The granting of a Tribal pardon shall not supersede the rights of these jurisdictions to determine the eligibility of voters.

126.9-2. *Other Restrictions*. The Committee’s written recommendation to the Oneida Business Committee to approve an applicant’s request for a pardon or forgiveness may also recommend the Oneida Business Committee impose restrictions on the applicant. If the Committee does not recommend a restriction, the Oneida Business Committee shall have the authority to place restrictions on the applicant before approving the pardon or forgiveness request. Restrictions shall specify the time lines attached to them, which may expand over a period of months, years, or indefinitely.

(a) Restrictions shall be clearly defined and may include the following:

(1) The applicant is ineligible for a transfer, promotion or job reassignment.

(2) The applicant may be prohibited from:

(A) Handling cash and/or merchandise.

(B) Having Tribal property sign-off authority.

(C) Supervising staff.

(D) Supervising or caring for children or the elderly.

(E) Any other restrictions the Oneida Business Committee determines as appropriate.

(b) When restrictions are imposed for a period of greater than five (5) years, the applicant may, after five (5) years, apply to have the restrictions modified or lifted. The request to modify or lift restrictions will follow the same process required to request a pardon.

(c) The applicant shall sign a written statement describing each restriction, and time period of such restriction prior to becoming employed by the Tribe.

126.9-3. *Conditions*. The Committee may also recommend that an applicant requesting a pardon or forgiveness be required to complete conditions before the applicant is granted the pardon or forgiveness. If the Committee does not recommend a condition, the Oneida Business Committee shall have the authority to place conditions on the applicant before approving the pardon or forgiveness request.

(a) Conditions shall be clearly defined and may include the following:

(1) perform community service hours within a Tribal Department.

(2) payment of restitution to the Tribe.

(3) any other conditions the Oneida Business Committee determines as appropriate.

126.10. Oneida Business Committee

126.10-1. The Oneida Business Committee shall consider all of the information received by the Committee prior to making a determination on whether to issue or deny a pardon or forgiveness application. The Oneida Business Committee may accept, reject or modify the Committee's recommendation.

126.10-2. *Deliberations.* Deliberations by the Oneida Business Committee shall take place in executive session. The Oneida Business Committee may request, by written notice, that the applicant be present during the deliberations to provide oral testimony or to answer questions. The notice shall be provided to the applicant thirty (30) days prior to the deliberations and shall contain the time, place and date of the deliberations.

126.10-3. *Final Decision.* The Oneida Business Committee shall issue or deny the pardon or forgiveness in open session, by resolution, including the reasons therefor and shall include for the record a clear indication of any decision and shall list the specific crimes to be pardoned or acts to be forgiven. This decision is final and cannot be appealed. Applicants may be eligible to re-apply for a pardon or forgiveness one (1) year from the date of the most recent denial of a pardon or forgiveness.

126.10-4. *Notification.* Notification of the final decision shall be sent to the applicant from the Tribal Secretary's office by certified mail or personally served within ten (10) business days following the decision. Applicants have a right to documentation of the final decision along with the resolution, and the reason(s) for the final decision.

126.10-5. *Resolution.* To grant or deny a pardon or forgiveness, a majority vote of the Oneida Business Committee is required.

126.10-6. *Eligibilities.* Unless otherwise directed by the Oneida Business Committee, a pardon or forgiveness may fully or partially restore some Tribal eligibilities lost as a result of a conviction or act including:

- (a) employment; and/or
- (b) an occupational license, certificate or permit; and/or
- (c) housing; and/or
- (d) other Tribal benefit.

End.

Adopted – BC-2-19-93-I

Adopted – BC-11-13-93-B (Oneida Pardon Procedures Policy)

Adopted – BC-11-24-93-B (Temporary Pardons)

Adopted – BC-7-31-02-A

Adopted – BC-05-25-11-A

Adopted – BC-01-22-14-B

Emergency Adoption – BC-04-28-21-A

Emergency Extended – BC-__-__-__-__



Legislative Operating Committee
October 20, 2021

Oneida General Welfare Law

| | |
|--------------------------------------|--|
| Submission Date: 12/18/18 | 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 10/13/21. |
| LOC Sponsor: Jennifer Webster | Emergency Enacted: 8/12/20, 2/10/21 |

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 an 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. The Oneida Business Committee then adopted emergency amendments to the Oneida General Welfare law on February 10, 2021, through resolution BC-02-10-21-B for the purpose of addressing the means in which the Oneida Business Committee may adopt an approved program – the emergency amendment would allow the Oneida Business Committee to adopt an approved program through resolution in addition to through the adoption of a law. The emergency adoption of the Law was set to expire on August 10, 2021. The Oneida Business Committee extended the emergency amendments to the Oneida General Welfare law on July 28, 2021, through the adoption of resolution BC-07-28-21-M. The emergency amendments to the Oneida General Welfare law will expire on February 10, 2022.*

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.

2/3/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, JoAnne House, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, Keith Doxtator, Susan House, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to touch base and discuss the progress that was being made in bringing forward emergency amendments to the Oneida General Welfare law and developing the approved programs – through adoption of a resolution – to meet the FY21 budget directive in resolution BC-11-24-20-F.

2/10/21 OBC: Motion by Lisa Liggins to adopt resolution 02-10-21-B Emergency Amendments to the Oneida General Welfare Law with two (2) changes [1) in line 16, correct date to March 13, 2021; and 2) in line 18, insert the appropriate resolution number], seconded by Jennifer Webster. Motion carried.

Motion by Lisa Liggins to request the Legislative Operating Committee and Legislative Reference Office to bring forward a BC SOP to an upcoming BC Work Session regarding how laws and resolutions are submitted to the Business Committee in accordance with this resolution, seconded by Jennifer Webster. Motion carried.

4/14/21 OBC: Motion by Lisa Liggins to defer this item [*Oneida Nation Assistance Fund Resolution*] until after executive session noting the resolution will be brought back with three (3) additional considerations, [1) the correction to line 45 [change from, "...between 18 to 61 years of...", change to, "...age 18 or older..."]; 2) noting the LOC's considerations for possible garnishments moving forward; 3) CFO's comments regarding Treasury guidance for the 65 and over payment.], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt the Oneida Business Committee standard operating procedure entitled Oneida General Welfare Law - Adoption of an Approved Program and direct the Secretary to finalize the SOP and publish, seconded by David P. Jordan. Motion carried.

4/21/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to discuss a plan for how to address the Oneida Business Committee directive contained in resolution BC-04-14-21-D that the LOC consider how garnishments will be handled for general welfare exclusion payments moving forward.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review and discuss the public comment period notice for the question of "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"

5/5/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law amendments public comment period notice for the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*” and forward this question to a public comment period to be held open until June 9, 2021; seconded by Marie Summers. Motion carried unanimously.

6/9/21: *Public Comment Period Closed.* Six (6) individuals submitted written comments during this public comment period.

6/24/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the public comments that were received regarding the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”

7/7/21 LOC: Motion by Marie Summers to accept public comments that were received for the Oneida General Welfare law amendments question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”; seconded by Daniel Guzman King. Motion carried unanimously.

7/21/21 LOC: Motion by Marie Summers to approve the Oneida General Welfare law emergency amendments extension packet and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

7/28/21 OBC: Motion by David P. Jordan to adopt resolution 07-28-21-M Extension of the Emergency Amendments to the Oneida General Welfare Law, seconded by Jennifer Webster. Motion carried.

8/26/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the draft of amendments to the Oneida General Welfare law to move forward for permanent adoption.

9/1/21 LOC: Motion by Jennifer Webster to approve the draft of the Oneida General Welfare law and direct that a legislative analysis be completed; seconded by Marie Summers. Motion carried unanimously.

9/15/21 LOC: Motion by Kirby Metoxen to approve the legislative analysis for the Oneida General Welfare law; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Marie Summers to approve the approve the Oneida General Welfare law public comment period notice and forward the Oneida General Welfare law to a public comment period to be held open until October 13, 2021; seconded by Jennifer Webster. Motion carried unanimously.

10/13/21: *Public Comment Period Closes.* The public comment period for the permanent adoption of the Oneida General Welfare law closed on October 13, 2021. No written submissions of comments were received during this public comment period.

Next Steps:

- Accept the public comment period review memorandum.

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



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: October 20, 2021
RE: Oneida General Welfare Law: Public Comment Review

A public comment period for the permanent adoption of the Oneida General Welfare law (“the Law”) was held open until October 13, 2021. A public meeting for the permanent adoption of the 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 Public Health State of Emergency has since been extended until November 25, 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, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, and BC-09-22-21-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 allowed 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.

On August 3, 2021, the Oneida Business Committee adopted resolution BC-08-03-21-A, *Setting Public Gathering Guidelines during Public Health State of Emergency—COVID-19*, which prohibits indoor and outdoor public gatherings when the COVID-19 infection rates within Brown or Outagamie Counties exceed “Low” as identified by the Wisconsin Department of Health Services.

In accordance with resolution BC-08-03-21-A, a public meeting was not held due to the infection rates within Brown and Outagamie Counties exceeding “Low” as identified by the Wisconsin Department of Health Services. Instead on September 15, 2021, the Legislative Operating Committee approved a public comment period to be held open until October 13, 2021, and the Nation’s COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration took effect.

Members of the community were provided an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail until October 13,

2021. No written comments were received for the proposed permanent adoption of the Oneida General Welfare law.

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.

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 or law of the Nation.

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

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

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

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

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

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

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

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

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

(f) "Nation" means the Oneida Nation.

(g) "Recipient" means any Tribal member entitled to receive assistance in accordance

with approved program requirements.

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

1001.4. General Welfare Assistance

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

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

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

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

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

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

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

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

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

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

(f) The assistance is not lavish or extravagant;

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

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

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

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

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

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

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

1001.4-4. Ratification of Prior Acts

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

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

sovereignty.

1001.5. Approved Program Guidelines ~~General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General Welfare Exclusion of 2014~~

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

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

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

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

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

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

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

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

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

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

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

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

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

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

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

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

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

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

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

1001.6. Non-Recourse Designation

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

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

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

1001.7. Governing Law; Sovereignty

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

1001.8. Federal Trust Obligations

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

~~**1001.9. Approved Program Guidelines**~~

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

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

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

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

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

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

End.

Emergency Adopted ~~BC-08-12-20-D~~
 Emergency Amended – BC-02-10-21-B
 Emergency ~~Extension~~Extended – BC-07-28-21-M
 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

or law of the Nation.

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

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

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

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

(f) "Nation" means the Oneida Nation.

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

1001.4. General Welfare Assistance

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

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

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

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

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

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

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

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

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

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

(f) The assistance is not lavish or extravagant;

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

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

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

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

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

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

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

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

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

1001.5. Approved Program Guidelines

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

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

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

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

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

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

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

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

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

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

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

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

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

1001.6. Non-Recourse Designation

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

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

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

1001.7. Governing Law; Sovereignty

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

1001.8. Federal Trust Obligations

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

End.

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

October 2021

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

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

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|---|---|---|--|--|----------|
| Sep 26 | 27 | 28 | 29 | 30 | Oct 1 | 2 |
| 3 | 4 | 5 | 6 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) | 7 | 8 | 9 |
| 10 | 11 | 12 1:30pm Oneida Personnel Policies and Procedures Emergency Amendments Work Meeting | 13 Oneida General Welfare Law Public Comment Period Closes | 14 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | 15 9:30am Budget Management and Control Law Amendments Work Meeting Continued | 16 |
| 17 | 18 1:00pm Oneida Personnel Policies and Procedures Emergency Amendments Work Meeting | 19 | 20 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | 29 | 30 |
| 31 | Nov 1 | 2 | 3 | 4 | 5 | 6 |