

ONEIDA NATION PUBLIC MEETING NOTICE

WEDNESDAY, MAY 18, 2022, 12:15 pm

Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)



Send Public Comments to

LOC@oneidation.org

Ask Questions here

LOC@oneidation.org

920-869-4417

ELDER ASSISTANCE PROGRAM LAW

The purpose of this proposed law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion.

The Elder Assistance Program Law will:

- ◆ Establish the Elder Assistance Program as an approved program of the Nation in accordance with the Oneida General Welfare law;
- ◆ Provide how this program qualifies for general welfare exclusion;
- ◆ Provide the eligibility requirements for accessing assistance from the Elder Assistance Program – which is that a person is a member of the Nation; age sixty-five (65) or older; and submits a completed application during the designated submission timeframe;
- ◆ Provide the minimum requirements for the information that must be included on the application;
- ◆ Provide how and when funds from the Elder Assistance Program are disbursed;
- ◆ Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient;
- ◆ Provide information on the funding source and who determines the amount of available funding to an eligible participant; and
- ◆ Provide the department that has the responsibilities to administer the Elder Assistance Program.

Individuals may attend the public meeting for the proposed Elder Assistance Program law in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidation.org

PUBLIC COMMENT PERIOD CLOSES WEDNESDAY, MAY 25, 2022

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



For more information on the proposed Elder Assistance Program law please review the public meeting packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).



ELDER ASSISTANCE PROGRAM LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: David P. Jordan	SPONSOR: David P. Jordan	DRAFTER: Clorissa N. Santiago	ANALYST: Carmen VanLanen
Intent of the Legislation or Amendments	It is the policy of the Nation to prioritize the general welfare needs of its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge, skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The interests of the Nation are advanced when its elders remain confident that their general welfare needs can be met. [10 O.C. 1002.1-2].		
Purpose	The purpose of this law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion. [10 O.C. 1002.1-1].		
Affected Entities	Oneida Business Committee, Oneida Trust Enrollment Department, The Nation's Elders		
Related Legislation	Oneida General Welfare Law		
Public Meeting	A public meeting has not yet been held.		
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.		

SECTION 2. LEGISLATIVE DEVELOPMENT

A. **Background.** The request to develop an Elder Assistance Program Law came from Councilman David P. Jordan based on a recommendation from the Chief Financial Officer during the October 20, 2021 LOC meeting. This request asked the LOC to consider developing a new law to establish an approved program under the Oneida General Welfare law which transitions the Nation's Elderly 65+ Per Capita Payment Distribution Fund, from being utilized for per capita payments to being utilized for general welfare assistance payments for elders.

SECTION 3. CONSULTATION AND OUTREACH

A. The following departments within the Nation participated in the development of this Law and legislative analysis:

- Oneida Law Office
- Oneida Business Committee
- Oneida Finance
- Trust Enrollment Department

SECTION 4. PROCESS

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

- On November 3, 2021, the Legislative Operating Committee added this Law to its Active Files List.
- On March 16, 2022, the Legislative Operating Committee approved the draft of this Law and directed that a legislative analysis be developed.

- 23 **B.** At the time this legislative analysis was developed the following work meetings had been held
24 regarding the development of this Law:
- 25 ▪ January 13, 2022: LOC work meeting.
 - 26 ▪ January 19, 2022: LOC work meeting with the Oneida Law Office, Finance, and Trust
27 Enrollment Department.
 - 28 ▪ February 16, 2022: LOC work meeting.
 - 29 ▪ February 22, 2022: Work meeting with Clorissa N. Santiago and Carl Artman.
 - 30 ▪ February 25, 2022: LOC work meeting.
 - 31 ▪ March 29, 2022: Joint Oneida Business Committee and Oneida Trust Enrollment
32 Committee Meeting.
- 33

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

35 **A. *Purpose and Policy.*** The purpose of this law is to establish the Elder Assistance Program to govern
36 how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare
37 Exclusion. [10 O.C. 1002.1-1]. It is the policy of the Nation to prioritize the general welfare needs of
38 its elders. The Nation recognizes that its elders process unique and irreplaceable stores of knowledge,
39 skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The
40 interests of the Nation are advanced when its elders remain confident that their general welfare needs
41 can be met. [10 O.C. 1002.1-2].

42 **B. *Establishment.*** The Elder Assistance Program is hereby established as an approved program of the
43 Nation in accordance with the Oneida General Welfare Law. The Elder Assistance Program meets the
44 requirements of the General Test as defined in the Oneida General Welfare law; General Criteria as
45 defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General Welfare
46 Exclusion Act of 2014 26 U.S.C. §139E(b). [10 O.C. 1002.4-1].

47 **C. *Guidelines and Requirements.*** The Elder Assistance Program shall be open to any individuals who
48 meet the following criteria:

- 49 a. Is a member of the Nation;
- 50 b. Is age sixty-five (65) or older; and
- 51 c. Submits a completed application during the designated submission timeframe [10 O.C.
52 1002.5-1].

53 The Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall
54 set forth through the adoption of a resolution an application submission period and disbursement
55 timeframe for a distribution of assistance from the Elder Assistance Program [10 O.C. 1002.5-2]. Any
56 individual seeking assistance from the Elder Assistance Program shall submit an application. The Trust
57 Enrollment Department shall make available an Elder Assistance Program application form and
58 instructions. Assistance provided through the Elder Assistance Program Application shall be disbursed
59 in accordance with the timeframe set through resolution by the Oneida Business Committee. Funds
60 from the Elder Assistance Program may be disbursed through direct deposit, or check, depending on
61 the selection made on the application by the recipient. [10 O.C. 1002.5-4].

62 **D. *Qualifying Expenditures.*** The following types of expenses shall be considered qualifying expenditures
63 for use of assistance from the Elder Assistance Program by the recipient:

- 64 a. costs relating to housing needs of principal residences such as:
 - 65 1. mortgage payments, rent payments, and down payments;
 - 66 2. enhancements for habitability of housing;

- 67 3. basic housing repairs or rehabilitation;
68 4. improvements to adapt housing for special health needs;
69 b. costs for paying utility bills and charges, including, but not limited to, the following:
70 1. water;
71 2. electricity;
72 3. gas;
73 4. basic communication services such as:
74 A. phone
75 B. internet; and
76 C. cable;
77 c. costs associated with food security;
78 d. costs associated with home care assistance;
79 e. costs associated with vehicle payments, maintenance, repair, and insurance;
80 f. costs associated with medical care and transportation, room, and board costs for seeking
81 medical care;
82 g. funeral and burial expenses and expenses for attending wakes, funerals, burials,
83 bereavements, and subsequent honoring events; and
84 h. costs related to any other emergency circumstance [10 O.C. 1002.5-5].

85 **E. Oversight and Records Maintenance.** The Trust Enrollment Department shall oversee the collection,
86 review, and permitted distribution of funds from the Elder Assistance Program to the qualifying
87 recipients and shall be responsible for maintenance of records for the Elder Assistance Program [10
88 O.C. 1002.5-6; 10 O.C. 1002.5-7]. The recipient shall retain receipts for the expenditure of the funds
89 associated with the Elder Assistance Program. [10 O.C. 1002.5-7].

90 **F. Funding.** The Elder Assistance program shall be funded through the Elder, Education and General
91 Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award 75 Trust Fund, and
92 any other funding sources deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1].
93 The Oneida Trust Enrollment Committee shall determine the amount of assistance available to an
94 eligible recipient from the Elder Assistance Program per any permitted distribution. [10 O.C. 1002.6-
95 2].
96

97 SECTION 6. RELATED LEGISLATION

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

- 99 ■ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation
100 provides assistance to eligible members on a non-taxable basis, pursuant to the principles of
101 the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits
102 to Tribal members. [10 O.C. 1001.1-1].
103 ■ The Elder Assistance Program is hereby established as an approved program of the
104 Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1002.4-1]. The
105 Elder Assistance Program meets the requirements of the General Test as defined in the
106 Oneida General Welfare Law. [10 O.C. 1002.4-2].

107 SECTION 7. OTHER CONSIDERATIONS

108 **A. Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.

- 109 a. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation

- 110 except emergency legislation. [1 O.C. 109.6-1].
- 111 i. A fiscal impact statement shall be submitted by agencies as directed by the Legislative
- 112 Operating Committee. [1 O.C. 109.6-1].
- 113 ii. Fiscal Impact statements may be prepared by any agency who may receive funding if
- 114 the legislation is enacted, any agency who may administer a program if the legislation
- 115 is enacted, any agency who may have financial information concerning the subject
- 116 matter of the legislation, or by the Finance Office, upon request of the Legislative
- 117 Operating Committee. [1 O.C. 109.6-1(a) and (b)].
- 118 iii. Oneida Business Committee resolution BC-10-28-20-A titled, “Further Interpretation
- 119 of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,” provides further
- 120 clarification on who the Legislative Operating Committee may direct complete a
- 121 fiscal impact statement at various stages of the legislative process, as well as
- 122 timeframes for completing the fiscal impact statement.
- 123 b. *Conclusion.* The Legislative Operating Committee has not yet requested that a fiscal impact
- 124 statement be developed for this law.

**Title 10. General Welfare Exclusion - Chapter 1002
ELDER ASSISTANCE PROGRAM**

1002.1. Purpose and Policy
1002.2. Adoption, Amendment, Repeal
1002.3. Definitions
1002.4. Establishment

1002.5. Guidelines and Requirements
1002.6. Funding

1002.1. Purpose and Policy

1002.1-1. *Purpose.* The purpose of this law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion.

1002.1-2. *Policy.* It is the policy of the Nation to prioritize the general welfare needs of its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge, skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The interests of the Nation are advanced when its elders remain confident that their general welfare needs can be met.

1002.2. Adoption, Amendment, Repeal

1002.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

1002.2-2. 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.

1002.2-3. 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.

1002.2-4. 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.

1002.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1002.3. Definitions

1002.3-1. 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 a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(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.

(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

42 approved program requirements.

43
44 **1002.4. Establishment**

45 1002.4-1. *Establishment.* The Elder Assistance Program is hereby established as an approved
46 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the
47 Elder Assistance Program is to provide financial assistance to elders of the Nation to address the
48 unique and compounding general welfare needs of elders.

49 1002.4-2. *General Welfare Exclusion.* The Elder Assistance Program meets the requirements of
50 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
51 I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General Welfare Exclusion
52 Act of 2014, 26 U.S.C. §139E(b). The assistance provided through the Elder Assistance Program
53 is:

- 54 (a) paid on behalf of the Nation;
- 55 (b) pursuant to an approved program of the Nation;
- 56 (c) does not discriminate in favor of members of the governing body of the Nation;
- 57 (d) available to any eligible member of the Nation who meets the guidelines of the
58 approved program;
- 59 (e) provided for the promotion of general welfare;
- 60 (f) not lavish or extravagant;
- 61 (g) not compensation for services; and
- 62 (h) not a per capita payment.

63
64 **1002.5. Guidelines and Requirements**

65 1002.5-1. *Eligibility.* The Elder Assistance Program shall be open to any individual who meets
66 the following criteria:

- 67 (a) is a member of the Nation;
- 68 (b) is age sixty-five (65) or older; and
- 69 (c) submits a completed application during the designated submission timeframe.

70 1002.5-2. *Distribution Period.* The Oneida Business Committee, in consultation with the Oneida
71 Trust Enrollment Committee, shall set forth through the adoption of a resolution an application
72 submission period and disbursement timeframe for a distribution of assistance from the Elder
73 Assistance Program.

74 1002.5-3. *Application for Funds.* Any individual seeking assistance from the Elder Assistance
75 Program shall submit an application.

- 76 (a) The Trust Enrollment Department shall make available an Elder Assistance Program
77 application form and instructions.

78 (1) The application shall require, at a minimum, the following information:

- 79 (A) first and last name;
- 80 (B) date of birth;
- 81 (C) street address, city, state, zip code;
- 82 (D) phone number;
- 83 (E) e-mail address;
- 84 (F) enrollment number;
- 85 (G) bank account information for direct deposit if necessary;
- 86 (H) declaration from the applicant that their need exists, and all information
87 provided therein is accurate and in accordance with the laws of the Nation

88 and federal law; and
89 (I) signature of the applicant, electronic or handwritten, affirming the
90 attestation.
91 (2) On the application the applicant shall designate the means by which they would
92 like to receive their disbursement of funds from the Elder Assistance Program,
93 either through direct deposit or check.
94 (b) Applicants shall complete and return the Elder Assistance Program application form
95 to the Trust Enrollment Department by the deadline set through resolution by the Oneida
96 Business Committee in order to be eligible for assistance from the Elder Assistance
97 Program.
98 (1) The information provided in the Elder Assistance Program application form
99 may be provided to any department, division, or personnel that processes the
100 applications.
101 1002.5-4. *Disbursement of Funds.* Assistance provided through the Elder Assistance Program
102 shall be disbursed in accordance with the timeframe set through resolution by the Oneida Business
103 Committee. Funds from the Elder Assistance Program may be disbursed through direct deposit, or
104 check, depending on the selection made on the application by the recipient.
105 1002.5-5. *Qualifying Expenditures.* The following types of expenses shall be considered
106 qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:
107 (a) costs relating to housing needs of principal residences such as:
108 (1) mortgage payments, rent payments, and down payments;
109 (2) enhancements for habitability of housing;
110 (3) basic housing repairs or rehabilitation;
111 (4) improvements to adapt housing for special health needs;
112 (b) costs for paying utility bills and charges, including, but not limited to, the following:
113 (1) water;
114 (2) electricity;
115 (3) gas;
116 (4) basic communication services such as:
117 (A) phone;
118 (B) internet; and
119 (C) cable;
120 (c) costs associated with food security;
121 (d) costs associated with home care assistance;
122 (e) costs associated with vehicle payments, maintenance, repair, and insurance;
123 (f) costs associated with medical care and transportation, room, and board costs for seeking
124 medical care;
125 (g) funeral and burial expenses and expenses for attending wakes, funerals, burials,
126 bereavements, and subsequent honoring events; and
127 (h) costs related to any other emergency circumstance.
128 1002.5-6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and
129 permitted distribution of funds from the Elder Assistance Program to the qualifying recipients.
130 1002.5-7. *Records Maintenance.* The Trust Enrollment Department shall be responsible for
131 maintenance of records for the Elder Assistance Program. The recipient shall retain receipts for
132 the expenditure of the funds associated with the Elder Assistance Program.
133

134 **1002.6. Funding**

135 1002.6-1. *Funding Source.* The Elder Assistance Program shall be funded through the Elder,
136 Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims
137 Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida
138 Business Committee.

139 1002.6-2. *Amount of Available Funding.* The Oneida Trust Enrollment Committee shall
140 determine the amount of assistance available to an eligible recipient from the Elder Assistance
141 Program per any permitted distribution.

142

143 *End.*

144

146 Adopted – BC- _ _ - _ - _
