



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA - REVISED

Business Committee Conference Room - 2nd Floor Norbert Hill Center

June 1, 2022

9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be Approved**
 1. May 18, 2022 LOC Meeting Minutes (pg. 2)
- III. Current Business**
 1. Healing to Wellness Court Law (pg. 4)
- IV. New Submissions**
 1. Emergency Adoption of the Oneida Nation Assistance Fund Law (pg. 23)
- V. Additions**
 1. Elder Assistance Program Law (pg. 39)
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 18, 2022
9:00 a.m.

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

Others Present: Clorissa N. Santiago, Shannon Davis, Eric Boulanger (Microsoft Teams), Amy Spears (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Nic Reynolds (Microsoft Teams), Ralinda Ninham-Lamberies (Microsoft Teams), Raw Skenandore (Microsoft Teams), Iris Hill (Microsoft Teams), Donna Smith (Microsoft Teams), Katsitsiyo Danforth (Microsoft Teams), Hon. Layatalati Hill (Microsoft Teams), Lisa Liggins (Microsoft Teams), Debra Powless (Microsoft Teams), Chad Fuss (Microsoft Teams), Hon. John Powless (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the May 18, 2022, Legislative Operating Committee meeting to order at 9:03 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. May 4, 2022 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the May 4, 2022, LOC meeting minutes and forward to the Business Committee; seconded by Marie Summers. Motion carried unanimously.

III. Current Business

1. Children's Code Amendments

Motion by Jennifer Webster to approve the public meeting packet and forward the Children's Code amendments to a public meeting to be held on June 15, 2022; seconded by Marie Summers. Motion carried unanimously.

2. Healing to Wellness Court Law

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



IV. New Submissions

1. Oneida Language Code

Motion by Jennifer Webster to add the Oneida Language Code to the Active Files List with Marie Summers as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:20 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee
June 1, 2022

Wellness Court Law

Submission Date: 12/20/17	Public Meeting: 5/4/22
LOC Sponsor: Daniel Guzman King	Emergency Enacted: n/a

Summary: *This item was carried over from last term. The request to a develop a Wellness Court law came from the Tribal Action Plan (TAP)- Laws and Policies Sub-Committee in December 2017. A Wellness Court brings together alcohol and drug treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant, and to promote Native Nation building and the well-being of the community.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Wellness Court Law to the Active Files List with Daniel Guzman King as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

11/18/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/19/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Joel Maxam, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/20/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court

Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

- 1/6/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Deborah Thundercloud, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Bridget Mendolla-Cornelius, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to begin the development of the Nation’s Wellness Court law by reviewing an initial draft based off of other Tribal Healing to Wellness Court laws to serve as an outline for discussion. The drafting attorney will schedule another work meeting to continue the review of the draft.
- 1/20/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to continue review and discussion of the Wellness Court law draft.
- 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 discuss a plan for moving this item forward through the legislative process.
- 2/5/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the Judiciary an opportunity to provide input on the development of the Wellness Court law.
- 3/2/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Deborah Thundercloud, Tsyoslake House, Wesley Martin, Gerald Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the various objectives for “TAP, Goal 4: Create and implement a comprehensive Justice System that includes a Wellness Court and a rehabilitative corrections system” and set a process for moving forward with work meetings.
- 3/16/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Wesley Martin. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss potential eligibility requirements for the Wellness Court.
- 5/18/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Robert Brown. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss Wellness Court phase considerations.
- 1/19/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting

was to review the updated and simplified draft of the Wellness Court law and determine the next steps for moving this legislative item forward.

- 1/27/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Rhiannon Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review updated and simplified draft of the Wellness Court law with the larger group, as well receive an update from the Judiciary on the progress of the internal policies and procedures for the Wellness Court.
- 2/10/22:** *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the two issues identified in the last work meeting (closed court vs. open court, and court of record vs. not a court of record), as well as review and discuss some suggested revisions from the Judiciary.
- 2/16/22 LOC:** Motion by Marie Summers to approve the draft of the Healing to Wellness Court law and direct that a legislative analysis be developed; seconded by Kirby Metoxen. Motion carried unanimously.
- 3/16/22 LOC:** Motion by Jennifer Webster to approve the legislative analysis for the Healing to Wellness Court law; seconded by Marie Summers. Motion carried unanimously.
- 3/31/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, 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 the public meeting notice for this law.
- 4/6/22 LOC:** Motion by Jennifer Webster to approve the public meeting packet and forward the Healing to Wellness Court law to a public meeting to be held on May 4, 2022; seconded by Marie Summers. Motion carried unanimously.
- 5/4/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to prepare for this afternoon's public meeting.
- 5/4/22:** *Public Meeting Held.* Present: Daniel Guzman King, Marie Summers, Brooke Doxtator, Clorissa N. Santiago, David P. Jordan (Microsoft Teams), Alebra Metoxen (Microsoft Teams), Diana Hernandez (Microsoft Teams), Michelle Myers (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Kristal Hill (Microsoft Teams), Tsyoshaat Delgado (Microsoft Teams), Stephanie Reinke (Microsoft Teams), Joy Salzwedel (Microsoft Teams). The public meeting for the proposed Healing to Wellness Court law was held in person in the Norbert Hill Center and on Microsoft Teams. Two (2) individuals provided public comment during the public meeting on Microsoft Teams.
- 5/11/22:** *Public Comment Period Closed.* One (1) submission of written comments was received during the public comment period.

5/18/22 LOC: Motion by Marie Summers to accept the public comments and the public comment review memorandum and defer these items to a work meeting for further consideration; seconded by Jennifer Webster. Motion carried unanimously.

5/18/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Kirby Metoxen, Clorissa N. Santiago. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the public comments that were received.

Next Steps:

- Approve the updated public comment review memorandum, draft, and updated legislative analysis.
- Approve the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by June 15, 2022.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CMS*
DATE: June 1, 2022
RE: Healing to Wellness Court Law: Public Comment Review with LOC Consideration

On May 4, 2022, a public meeting was held regarding the proposed Healing to Wellness Court law (“the Law”). The public comment period was then held open until May 11, 2022. On May 18, 2022, the Legislative Operating Committee reviewed and considered all public comments received.

Comments 1 through 2 – Community Health Services Department Support:

Michelle Myers (oral): Afternoon. I just wanted to make a comment that I'm reviewing the information that was available on this proposed law, that there is a lot of scientific evidence, evidence - evidence based information to support the success of drug courts. So, looking at it through the lens of public health lens, this is definitely something that we would support. That's my comment.

Michelle Myers (written): To whom it may concern: The Community Health Services Department of the Oneida Comprehensive Health Division supports the proposed Wellness Court Law.

1. Drug court is a strategy supported by scientific evidence to reduce recidivism, reduce drug use, and reduce incarceration among criminal offenders with drug dependency problems. When reviewing available information on drug courts, research going back several years can be found to support the success of drug courts (County Health Rankings, 2016).

2. Drug court is a strategy that promotes health equity, which is achieved when every person has the opportunity to live a healthy life. Health inequities can contribute to increase overdose deaths and other negative health outcomes. Social Determinants of Health or the conditions in which people live, work, learn and play, can also contribute to health inequities and result in intergenerational risk for substance use and overdose (Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 2021).

Please feel free to contact me with any questions.

Response

The commenter expresses support for the Healing to Wellness Court law from not only herself but from the Community Health Services Department of the Oneida Comprehensive Health Division. There is no revision to the Law recommended based on this comment.

LOC Consideration

The Legislative Operating Committee thanks Michelle Myers for expressing support for the Healing to Wellness Court law on behalf of the Community Health Services Department of the Oneida Comprehensive Health Division. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Comment 3 – Cultural Heritage Support:

Tsyoshaat Delgado (oral): I'm calling on behalf of myself in regards to and in of the program on the cultural part of this is in. In reading through the information that that was sent out the Healing to Wellness Court I have about five (5) years experience working with the corrections in trying to reintegrate individuals, Native Americans, specifically from Menominee, Oneida, and Stockbridge Munsee Nations, to come back into the community to find the resources they need to to get reintegrated into the community. And so I'm in support of this and I think it'll be really key and important to help people develop a foundation in regards to our culture and language and to be able to uh, contribute in some way in regards to their learning and also to be able to contribute in a way to the community around culture and language.

And so I'm in support of this and, and I know we had a meeting yesterday, if I'm not mistaken, with Simone Ninham and trying to figure out how we can implement culture into the program and so I'm in support of it. And there's definitely some information in there that pertains specifically to, you know, alcohol use. And it's basically covers everything on just what you put in your system that's a mind changer, you know. And there's all kinds of things unfortunately, in today's society that that changes our minds right now, you know, all the drug addiction, whether it's a needle or you're snorting or huffing or smoking or popping a pill or shooting up. There's all those things. So it doesn't only pertain to alcoholism.

As it is mentioned in some of our teachings and so I'm in support of this and trying to figure out what would be the best way to support this going forward in educating those individuals. And I'm thinking we're primarily talking about Oneida members, but introducing them to some culture and how they can impact the community and support that happening amongst ourselves.

And so if it also can be fitting to find out what their gifts are. What are some of the things that they have themselves that they can contribute? Because we all come, come about this earth with certain gifts and we have to find out what they are. And unfortunately, when we have mind changing things happen to our bodies, then we lose sight of what those gifts are. And if we can get back to that and try and educate them and, and kind of flame their fire to support them being able to figure out what their gift is so they can share that with their families, their community, you know the Nation. You know, and just the whole human family. I think that would be some of the things that will be very, Umm, influential in contributing in that way. So they don't only feel like, oh, you know, I've got a conviction and now I gotta do all these things, and now I have to do this. No, we're not interested in making them do anything, but it's creating an awareness for them so that they can support these things that are going to be happening that are always still happening. All of our ceremonies, our medicines and you know our Thanksgiving and you know addressing trauma things.

Such as they did, you know, trying to revisit and help the healing along with what had happened at the Radisson, you know about a year ago. You know, so it's all of those things and, and it doesn't have to necessarily say that now you're committed and you have to do this. No, it's about what is it that they come to into this world with? What gifts are they? How can we feed their fire in a way so that it's in a positive way. What happened to them as they got lost as they went along and and began to use whatever they're using and end up landing, you know, in the court system within the Nation. So I'm just speaking on behalf of, of myself and somewhat of Cultural Heritage to support, you know, the healing process happening for these individuals.

I think that it'll be important moving forward that the education for those individuals that are implementing these types of things are educated as well, in some shape or form. I'm not sure what all that looks like, and I'm guessing they have a lot of work and the development of those kinds of things, but that's gonna be key just as much as it is for those individuals that are gonna have to be, that are gonna be assigned or willing to do this kind of healing.

So it's, it's almost like you can't really teach something that you don't really know about, and so that's what I'm where I'm coming from in regards to the education of the staff that work there, and do they even know what they're sending these individuals to? And if not, then then there has to be some kind of bridge that's there to to support them going to this because we don't want, you know, to be doing things and say ohh, I don't understand that and I'm not gonna do that - I'm just, you know, that doesn't sound right to me, OK. Well, then it it's a matter of it becoming educated about that and entertaining the questions and, and having answers or being able to refer them to where they can get answers. But that's gonna be key just as well. So that's all I have and thank you for listening.

Response

The commenter expresses support for the Healing to Wellness Court law from not only herself but from the Cultural Heritage Department, and speaks to the importance of connecting culture and tradition to the practices of the Healing to Wellness Court law in a meaningful way. There is no revision to the Law recommended based on this comment.

LOC Consideration

The Legislative Operating Committee thanks Tsyoshaat Delgado for expressing support for the Healing to Wellness Court law on behalf of herself and the Cultural Heritage Department. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Title 8. Judiciary - Chapter 808
HEALING TO WELLNESS COURT

808.1. Purpose and Policy
808.2. Adoption, Amendment, Repeal
808.3. Definitions

808.4. General
808.5. Healing to Wellness Court Procedures

808.1. Purpose and Policy

808.1-1. *Purpose.* The purpose of this law is to establish the Nation’s Healing to Wellness Court to:

- (a) offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue;
- (b) provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho tá (Our Ways);
- (c) create intragovernmental and intergovernmental collaborative teams to interact with each participant; and
- (d) encourage and support each participant in the goal of their recovery to lead lawful productive lives free of substance abuse and addiction.

808.1-2. *Policy.* It is the policy of the Nation to bring together community-healing resources with the Nation’s justice system to work collaboratively with intragovernmental and intergovernmental partnerships to reduce the abuse of alcohol and other drugs and drug-related criminal activity affecting the Nation’s community in an effort to promote life-long substance abuse recovery and the reintegration of participants into the Oneida community.

808.2. Adoption, Amendment, Repeal

808.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

808.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

808.2-3. 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.

808.2-4. 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.

808.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

808.3. Definitions

808.3-1. 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) “Court” means the Oneida Healing to Wellness Court, which is a division under the Trial Court that has the designated responsibility to oversee the Healing to Wellness Court program matters.

(b) “Court of competent jurisdiction” means a federal, state, or tribal court that has jurisdiction and authority to do a certain act or hear a certain dispute.

(c) “Healing to Wellness Court program” means a court-supervised evidence-based treatment program which promotes recover through a coordinated community-based

41 response for individuals who abuse or are dependent on any controlled substance or
42 alcohol.

43 (d) “Intragovernmental” means relating to or conducted within a government.

44 (e) “Intergovernmental” means relating to or conducted between two (2) or more
45 governments.

46 (f) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was
47 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
48 authorized to administer the judicial authorities and responsibilities of the Nation by
49 Oneida General Tribal Council resolution GTC-03-19-17-A.

50 (g) “Nation” means the Oneida Nation.

51 (h) “Participant” means an individual who is admitted to the Healing to Wellness Court.

52 (i) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.
53

54 **808.4. General**

55 808.4-1. *Establishment.* The Healing to Wellness Court is hereby established as a division of the
56 Trial Court.

57 (a) The Court shall have the authority to issue all orders necessary to ensure the safety,
58 well-being, and rehabilitation of individuals who come within or consent to its jurisdiction.

59 (b) The Court shall have the power to implement all the duties, responsibilities, and
60 remedies set out in this law, including the power to enforce subpoenas and orders of
61 restriction, fines and orders of restitution, contempt, and other powers as appropriate.

62 808.4-2. *Jurisdiction.* The Court shall have jurisdiction over matters related to substance abuse
63 and addiction and any matter arising under this law.

64 (a) *Concurrent Jurisdiction.* The Court shall have the authority to collaborate with courts
65 of competent jurisdiction that exercise concurrent jurisdiction.

66 (b) The Court may enter into collaborative inter-jurisdictional agreements with other
67 courts of competent jurisdiction, law enforcement agencies, and other service providers
68 upon approval by the Oneida Business Committee.

69 808.4-3. *Healing to Wellness Court Team.* The Healing to Wellness Court program shall be
70 administered by a Healing to Wellness Court Team. The Healing to Wellness Court Team is the
71 group of professionals who are primarily responsible for overseeing the day-to-day operations of
72 the Healing to Wellness Court program and administering the treatment and supervisory
73 interventions.

74 (a) *Composition.* The Healing to Wellness Court Team shall be comprised of the following
75 individuals:

76 (1) Trial Court Judge;

77 (2) Healing to Wellness Court Coordinator;

78 (3) Oneida Police Department Officer;

79 (4) Representative of Probation;

80 (5) Substance Abuse Treatment Provider;

81 (6) Representative of Oneida culture and heritage; and

82 (7) any other member to be determined by the Healing to Wellness Court Team.

83 (b) *Revisions to the Composition of the Healing to Wellness Court Team.* The composition
84 of the Healing to Wellness Court Team may be revised as necessary as determined by the
85 Court. The Court shall provide notification of any revision to the composition of the
86 Healing to Wellness Court Team to the Oneida Business Committee and General Manager.
87

88 **808.5. Healing to Wellness Court Procedures**

89 808.5-1. *Establishment of Policies and Procedures.* The Court shall establish policies and
90 procedures governing the operation and implementation of the Healing to Wellness Court program.
91 The policies and procedures of the Healing to Wellness Court program shall not affect substantive
92 rights and shall not conflict with existing law or rules enacted or approved by the Oneida Business
93 Committee or Oneida General Tribal Council unless otherwise provided for within this law.

94 808.5-2. Healing to Wellness Court Team meetings and hearings shall proceed pursuant to the
95 policies and procedures adopted by the Court.

96 808.5-3. All Healing to Wellness Court Team meetings and hearings shall be closed to the public
97 except for invited guests as allowed by HIPAA regulations.

98 808.5-4. The Court is strictly a non-adversarial forum.

99 808.5-5. The Court judge shall make all findings of facts relevant to each participant's case
100 pursuant to the policies and procedures adopted by the Court.

101 808.5-6. *Exclusion from the Oneida Judiciary Rules of Evidence and Oneida Judiciary Rules of*
102 *Civil Procedure.* The Oneida Judiciary Rules of Evidence as well as the Oneida Judiciary Rules
103 of Civil Procedure shall not apply in any Court proceedings.

104 808.5-7. *Not a Court of Record.* The Court shall not be a court of record. Any information
105 obtained, used, or disclosed by a member of the Healing to Wellness Court Team, including the
106 participant, while the participant is under the jurisdiction of the Court shall not be used as evidence
107 against the participant in any other proceeding in the Judiciary or any other court in any other
108 jurisdiction. All Court records are privileged and confidential and shall not be disclosed except to
109 the members of the Healing to Wellness Court Team.

110 (a) Confidential information may always be disclosed after the participant has signed a
111 proper consent form, even if it is protected by Federal confidentiality regulations. The
112 regulations also permit disclosure without a participant's consent in several situations,
113 including medical emergencies, program evaluations and communications among program
114 staff.

115
116 *End.*

117
118 _____
Adopted – BC- __ - __ - __ - __



HEALING TO WELLNESS COURT LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Tribal Action Plan (TAP)-Laws and Policies Sub- Committee	SPONSOR: Daniel Guzman King	DRAFTER: Clorissa N. Santiago	ANALYST: Carmen VanLanen
Intent of the Legislation or Amendments	To establish the Nation’s Healing to Wellness Court to bring together community healing resources with the Nation’s justice system to work collaboratively with intragovernmental and intergovernmental partnerships to reduce the abuse of alcohol and other drugs and drug-related criminal activity affecting the Nation’s community in an effort to promote life-long substance abuse recovery and the reintegration of participants into the Oneida community [8 O.C. 808.1-2].		
Purpose	<p>The purpose of this law is to establish the Nation’s Healing to Wellness Court to:</p> <ul style="list-style-type: none"> • Offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue [8 O.C. 808.1-1(a)]; • Provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho tá (Our Ways) [8 O.C. 808.1-1(b)]; • Create intragovernmental and intergovernmental collaborative teams to interact with each participant [8 O.C. 808.1-1(c)]; and • Encourage and support each participant in the goal of recovery to lead lawful, productive lives free of substance abuse and addiction [8 O.C. 808.1-1(d)]. 		
Affected Entities	The Nation’s Judiciary, Oneida Police Department, and Oneida Behavioral Health		
Related Legislation	Public Peace Law; Judiciary Law; Oneida Judiciary Rules of Civil Procedure Law; Oneida Judiciary Rules of Evidence Law		
Public Meeting	A public meeting was held on Wednesday, May 4, 2022 with a public comment period held open until May 11, 2022.		
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 a Healing to Wellness Court law came from the Tribal Action Plan (TAP)- Laws and Policies Sub-Committee in December 2017. The Law was first added to the Active Files List on October 7, 2020.

B. **History of Drug Courts.** The drug court movement started in the late 1980s to help combat an increase in the number drug-related offenses and re-offenses that resulted in overcrowded jails and prisons, which incarceration alone was not able to control.¹ Between 1980 and 2000, arrests for drug offenses more than doubled.² Those who were imprisoned were not being treated for their substance abuse and the underlying problems and were subjected to traumatization by the prison system and faced many barriers upon release³. The response to this issue was to develop a court approach that systematically prioritized treatment in substance abuse cases.⁴ A drug court is a special court docket to which cases involving alcohol and other substance abusing offenders are assigned for intensive supervision and treatment.⁵ Drug courts are distinguished by several features, such as expedited case processing, outpatient treatment, and support services (e.g., job placement and housing services).⁶

C. **Development of Healing to Wellness Courts in Native Nations.** Native nations were looking to develop a court that would help confront intergenerational substance abuse issues while avoiding the term “drug court”, thus developing the term “healing to wellness court”. This term referred to the healing and wellness aspects of this approach, along with the idea that wellness is an ongoing journey.⁷ In August 2003, state and national drug court efforts were used to help draft tribal-specific healing to wellness court curriculums. The newly developed Healing to Wellness Courts were not simply tribal courts that heard cases involving substance abuse but were special court docket-collaboratives that partnered with service providers to create a program for participants that included extensive supervision and treatment.⁸ Tribal Healing to Wellness courts are guided by the Tribal Ten Key Components, which are the fundamental essentials of the drug court concept that were adjusted to reflect the tribal notions of healing and wellness, particularly the concept of a healing to wellness journey and the collaboration involved.⁹

SECTION 3. CONSULTATION AND OUTREACH

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

- Oneida Nation Judiciary;
- Oneida Police Department;
- Oneida Behavioral Health;
- Tribal Action Plan (TAP);

¹ U.S. Department of Justice Office of Justice Programs, “Tribal Healing to Wellness Court: The Key Components,” (April 2003).

² Arthur J. Lurigio, “The First 20 Years of Drug Treatment Courts: A Brief Description of Their History and Impact”.

³ Tribal Law and Policy Institute, “Tribal Healing to Wellness Courts: Intergovernmental Collaboration,” (May 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Arthur J. Lurigio, “The First 20 Years of Drug Treatment Courts: A Brief Description of Their History and Impact”.

⁷ Tribal Law and Policy Institute, “Tribal Healing to Wellness Courts: Intergovernmental Collaboration,” (May 2021).

⁸ *Id.*

⁹ *Id.*

- 35 ▪ Legal Resource Center;
36 ▪ General Manager; and
37 ▪ Oneida Business Committee
- 38 **B.** The following groups outside of the Nation were consulted in the drafting of this law and analysis:
39 ▪ Tribal Law and Policy Institute;
40 ▪ National Association of Drug Court Professionals (NADCP);
41 ▪ Wisconsin Department of Corrections; and
42 ▪ Wisconsin Statewide Treatment Court Coordinator.
- 43 **C.** The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the
44 drafting of this Law and analysis:
45 ▪ Ho-Chunk Nation Healing to Wellness Court Code;
46 ▪ Cherokee Tribal Drug Court Code of Ordinances;
47 ▪ Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians Wellness Court Tribal
48 Code;
49 ▪ Fort Peck Wellness Court Code;
50 ▪ Penobscot Nation Healing to Wellness Court Program Procedures;
51 ▪ Poarch Band Creek of Indians Healing to Wellness Court Code;
52 ▪ Swinomish Tribal Court Code;
53 ▪ Fort McDowell Yavapai Nation Law and Order Code;
54 ▪ Winnebago Tribal Traditional Wellness Court Code; and
55 ▪ Tlingit and Haida Indian Tribes of Alaska Wellness Court Code.
- 56

57 **SECTION 4. PROCESS**

- 58 **A.** This Law has followed the process set forth in the Legislative Procedures Act (LPA).
59 ▪ On October 7, 2020, the Legislative Operating Committee added this Law to its Active
60 Files List.
61 ▪ On February 16, 2022, the Legislative Operating Committee approved the draft of this law
62 and directed that a legislative analysis be developed.
63 ▪ On March 16, 2022, the Legislative Operating Committee approved the draft of the
64 legislative analysis.
65 ▪ On April 6, 2022, the Legislative Operating Committee approved the public meeting packet
66 and forwarded the Healing to Wellness Court law to a public meeting to be held on May 4,
67 2022.
68 ▪ On May 4, 2022, the public meeting was held in person in the Norbert Hill Center and on
69 Microsoft Teams. Two (2) individuals provided public comment during the public meeting
70 via Microsoft Teams.
71 ▪ On May 11, 2022, the public comment period closed. One (1) submission of written
72 comments was received during the public comment period.
73 ▪ On May 18, 2022, the Legislative Operating Committee accepted the public comments and
74 the public comment review memorandum and deferred these items to a work meeting for
75 further consideration.
- 76 **B.** A group that included members from the departments of the Legislative Reference Office, Legislative
77 Operating Committee, and the Oneida Business Committee participated in the Tribal Healing to

78 Wellness Court Planning Initiative (THTWCPI) Training held by the National Association of Drug
79 Court Professionals (NADCP) through Microsoft Teams on the following dates:

- 80 ▪ November 18, 2020;
- 81 ▪ November 19, 2020; and
- 82 ▪ November 20, 2020.

83 C. At the time this legislative analysis was developed the following work meetings had been held
84 regarding the development of this Law:

- 85 ▪ January 6, 2021: LOC work meeting with the Oneida Police Department, Oneida Judiciary,
86 General Manager, Oneida Behavioral Health, Legal Recourse Center, and Wisconsin
87 Department of Corrections.
- 88 ▪ January 20, 2021: LOC work meeting Oneida Police Department, Oneida Judiciary,
89 General Manager, Oneida Behavioral Health, Legal Recourse Center, and Wisconsin
90 Department of Corrections.
- 91 ▪ January 28, 2021: LOC work meeting.
- 92 ▪ February 5, 2021: Work meeting with Oneida Judiciary.
- 93 ▪ March 2, 2021: LOC work meeting with Oneida Police Department, Oneida Judiciary,
94 General Manager, Oneida Behavioral Health, Legal Recourse Center, and Tribal Action
95 Plan.
- 96 ▪ March 16, 2021: LOC work meeting with Oneida Police Department, Oneida Judiciary,
97 General Manager, Oneida Behavioral Health, and Legal Recourse Center.
- 98 ▪ May 18, 2021: Work meeting with Oneida Judiciary, Oneida Behavioral Health, Tribal
99 Action Plan, Cultural Heritage.
- 100 ▪ January 19, 2022: LOC work meeting.
- 101 ▪ January 27, 2022: LOC work meeting with Oneida Police Department, and Oneida
102 Judiciary.
- 103 ▪ February 10, 2022: LOC work meeting with Oneida Police Department, and Oneida
104 Judiciary.
- 105 ▪ March 31, 2022: LOC work meeting.
- 106 ▪ May 4, 2022: LOC work session.
- 107 ▪ May 18, 2022: LOC work session.

109 SECTION 5. CONTENTS OF THE LEGISLATION

110 A. **Purpose and Policy.** The purpose of this Law is to establish the Nation’s Healing to Wellness Court.
111 The Court shall offer intensive treatment, case management, and court supervision to individuals who
112 have committed an offense directly or indirectly related to substance abuse or addiction issues. [8 O.C.
113 808.1-1]. It is the policy of the Nation to bring together community-healing resources with the Nation’s
114 justice system to collaborate with partnerships to reduce the risk of substance abuse and criminal
115 activity related to substance abuse. [8 O.C. 808.1-2].

116 B. **Establishment.** The Healing to Wellness Court is hereby established as a division of the Trial Court.
117 [8 O.C. 808.4-1]. The Court shall have the authority to issue all orders necessary to ensure the safety,
118 well-being, and rehabilitation of individuals who come within or consent to its jurisdiction. [8 O.C.
119 808.4-1(a)]. The Court shall have the power to implement all the duties, responsibilities, and remedies
120 set out in this Law, including the power to enforce subpoenas and orders of restriction, fines and orders
121 of restitution, contempt, and other powers as appropriate. [8 O.C. 808.4-1(b)].

122 C. **Jurisdiction.** The Healing to Wellness Court shall have jurisdiction over matters related to substance
123 abuse and addiction and any matters arising under this Law *[8 O.C. 808.4-2]*.

124 D. **Healing to Wellness Court Team.** The Healing to Wellness Court program shall be administered by a
125 Healing to Wellness Court Team, which shall be comprised of the following individuals:

- 126 1. Trial Court Judge;
- 127 2. Healing to Wellness Court Coordinator;
- 128 3. Oneida Police Department Officer;
- 129 4. Representative of Probation;
- 130 5. Substance Abuse Treatment Provider;
- 131 6. Representative of Oneida culture and heritage; and
- 132 7. Any other member to be determines by the Healing to Wellness Court Team. *[8 O.C. 808.4-*
133 *3(a)]*.

134 The composition of the Healing to Wellness Court Team may be revised as necessary as determined by
135 the Court. The Court shall provide notification of any revision to the composition of the Healing to
136 Wellness Court Team to the Oneida Business Committee and General Manager. *[8 O.C. 808.4-3(b)]*.

137 E. **Healing to Wellness Court Procedures.** The Court shall establish policies and procedures governing
138 the operation and implementation of the Healing to Wellness Court program. *[8 O.C. 808.5-1]*. All
139 Healing to Wellness Court Team meetings and hearings shall be closed to the public except for invited
140 guests as allowed by HIPAA regulations. *[8 O.C. 808.5-3]*. The Court shall not be a court of record.
141 Any information obtained, used, or disclosed by a member of the Healing to Wellness Court Team,
142 including the participant, while the participant is under the jurisdiction of the Court shall not be used
143 as evidence against the participant in any other proceeding in the Judiciary or any other court in any
144 other jurisdiction. All Court records are privileged and confidential and shall not be disclosed except to
145 the members of the Healing to Wellness Court Team. *[8 O.C. 808.5-7]*. However, confidential
146 information may always be disclosed after the participant has signed a proper consent form, even if it
147 is protected by Federal confidentiality regulations. The regulations also permit disclosure without a
148 participant's consent in several situations, including medical emergencies, program evaluations, and
149 communications among program staff. *[8 O.C. 808.5-7(a)]*.

150

151 SECTION 6. RELATED LEGISLATION

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

153 ■ **Judiciary law.** The Judiciary law established a Judiciary for the Nation, and provides for the
154 administration of law, justice, judicial procedures and practices by the Nation as a sovereign
155 nation by exercising the inherent power to make, execute, apply and enforce its own law, and
156 to apply its own customs and traditions in matters affecting the Oneida people. *[8 O.C. 801.1-*
157 *1]*.

158 ■ **Court Open to the Public.** The Judiciary law provides that proceedings of the Trial
159 Court shall be public and members of the general public may freely attend the same,
160 except for peacemaking or mediation proceedings or if expressly prohibited by law. *[8*
161 *O.C. 801.4-4]*.

162 1. This Law provides that all Healing to Wellness Court Team hearings shall be
163 closed to the public except for invited guests as allowed by HIPAA
164 regulations. *[8 O.C. 808.5-3]*.


- 165 ▪ *Subject Matter Jurisdiction.* The Judiciary law provides that Trial Court shall have
166 subject matter jurisdiction over cases and controversies where laws of the Nation
167 specifically authorize the Trial Court to exercise jurisdiction.
168 1. This Law provides that the Healing to Wellness Court shall have jurisdiction
169 over matters related to substance abuse and addiction and any matters arising
170 under this law. [8 O.C. 808.4-2].
- 171 ▪ *Internal Operating Procedures.* The Judiciary law provides that the Judiciary is
172 authorized to establish internal operating procedures governing the operation of the
173 court, as long as the procedures shall not affect substantive rights and shall not conflict
174 with existing law, the Rules of Procedure, or other rules enacted or approved by the
175 Oneida Business Committee or Oneida General Tribal Council.
176 1. This Law provides that the Court shall establish policies and procedures
177 governing the operation and implementation of the Healing to Wellness Court
178 program. [8 O.C. 808.5-1].
- 179 ▪ *Oneida Judiciary Rules of Civil Procedure.* The Oneida Judiciary Rules of Civil Procedure
180 governs all civil actions that fall under the jurisdiction of the Nation to ensure that there is a
181 consistent set of rules governing the process for civil claims, in order to ensure equal and fair
182 treatment to all persons who come before the Tribal Courts to have their disputes resolved. [8
183 O.C. 803.1-1, 803.1-2].
184 ▪ This Law provides that the Oneida Judiciary Rules of Civil Procedure shall not apply
185 in any Court proceedings. [8 O.C. 808.5-6].
- 186 ▪ *Oneida Judiciary Rules of Evidence.* The Oneida Judiciary Rules of Evidence establishes rules
187 of evidence to apply in proceedings held in the Trial court and Family Court of the Oneida
188 Judiciary administer Court proceedings fairly, eliminate unjustifiable expense and delay, and
189 promote the development of evidence law, by obtaining the truth and securing a just
190 determination. [8 O.C. 804.1-1, 804.1-2].
191 ▪ This Law provides that the Oneida Judiciary Rules of Evidence shall not apply in any
192 Court proceedings. [8 O.C. 808.5-6].
- 193 ▪ *Public Peace Law.* The Public Peace law sets forth community standards and expectations
194 which preserve the peace, harmony, safety, health, and general welfare of individuals who live
195 within the boundaries of the Reservation. [3 O.C. 309.1-1]. The Public Peace law prohibits a
196 person from committing a civil infraction involving alcohol, tobacco, and drugs. [3 O.C. 309.4-
197 4, 309.9]. Upon a finding by the Trial Court that a violation of the Public Peace law has
198 occurred, the individual may be ordered to participate in counseling or any other program
199 relevant and available to the Nation. [3 O.C. 309.11-2(c)].
200 ▪ Potentially, a person who violates the Public Peace law may be ordered to participate
201 in the Nation’s Healing to Wellness Court program is allowed by Court’s policies and
202 procedures.

203
204 **SECTION 7. OTHER CONSIDERATIONS**

- 205 **A. Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.
206 a. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
207 except emergency legislation. [1 O.C. 109.6-1].

- 208 i. A fiscal impact statement shall be submitted by agencies as directed by the Legislative
209 Operating Committee. [1 O.C. 109.6-1].
- 210 ii. Fiscal Impact statements may be prepared by any agency who may receive funding if
211 the legislation is enacted, any agency who may administer a program if the legislation
212 is enacted, any agency who may have financial information concerning the subject
213 matter of the legislation, or by the Finance Office, upon request of the Legislative
214 Operating Committee. [1 O.C. 109.6-1(a) and (b)].
- 215 iii. Oneida Business Committee resolution BC-10-28-20-A titled, “Further Interpretation
216 of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,” provides further
217 clarification on who the Legislative Operating Committee may direct complete a
218 fiscal impact statement at various stages of the legislative process, as well as
219 timeframes for completing the fiscal impact statement.
- 220 b. *Conclusion.* The Legislative Operating Committee will be requesting that a fiscal impact
221 statement be developed for this Law on June 1, 2022.
- 222



TO: Cristina Danforth, Treasurer
Lawrence E. Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistance Chief Financial Officer
FROM: David P. Jordan, Legislative Operating Committee Chairman 
DATE: June 1, 2022
RE: Healing to Wellness Court Law Fiscal Impact Statement

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

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

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

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1].

Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*” provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On June 1, 2022, the Legislative Operating Committee approved the final draft of the proposed Healing to Wellness Court law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed Healing to Wellness Court law by June 15, 2022.

A copy of the proposed Healing to Wellness Court law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the proposed Healing to Wellness Court law by June 15, 2022.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: May 25, 2022
- 2) Contact Person(s): Clorissa N. Santiago
Dept: Legislative Reference Office
Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Emergency Adoption of the Oneida Nation Assistance Fund Law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
The purpose of the Law is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law.

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

- 1) Emergency Adoption Memo
- 2) Draft
- 3) Legislative Analysis
- 4) Resolution and SOE

- 5) Please list any laws, policies or resolutions that might be affected:
Oneida General Welfare Law
- 6) Please list all other departments or person(s) you have brought your concern to:
LOC, Oneida Law Office, Finance Administration, Trust Enrollment Department, Government Administration Office
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
Emergency legislation is necessary to best meet the general welfare needs of members of the Nation

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

Signature of Requester:

Please send this form and all supporting materials to:

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



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson [Signature]
DATE: June 8, 2022
RE: Emergency Adoption of the Oneida Nation Assistance Fund Law

Please find the following attached backup documentation for your consideration of the emergency adoption of the Oneida Nation Assistance Fund law:

1. Resolution: Emergency Adoption of the Oneida Nation Assistance Fund Law
2. Statement of Effect: Emergency Adoption of the Oneida Nation Assistance Fund Law
3. Oneida Nation Assistance Fund Law Legislative Analysis
4. Oneida Nation Assistance Fund Law

Overview

Emergency adoption of the Oneida Nation Assistance Fund law (the “Law”) is being sought to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. The Law will:

- Establish the Oneida Nation Assistance Fund as an approved program of the Nation in accordance with the Oneida General Welfare law [10 O.C. 1003.4-1];
- Provide how this program qualifies for general welfare exclusion [10 O.C. 1003.4-2];
- Provide the eligibility requirements for accessing assistance from the Oneida Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen (18) or older; and submits a completed application during the designated submission timeframe [10 O.C. 1003.5-1];
- Provide the minimum requirements for the information that must be included on the application [10 O.C. 1003.5-3];
- Provide how and when funds from the Oneida Nation Assistance Fund are disbursed [10 O.C. 1003.5-2, 1003.5-4];
- Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from Oneida Nation Assistance Fund by the recipient [10 O.C. 1003.5-5];
- Provide information on the funding source and who determines that amount of available funding to an eligible participant [10 O.C. 1003.6-1, 1003.6-2]; and
- Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. [10 O.C. 1003.5-6, 1003.5-7].

In response to the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management law, Chairman Tehassi Hill signed a *Declaration of Public Health State of Emergency* regarding COVID-19 which was subsequently extended by the Oneida Business Committee until July 22, 2022, through the adoption of the following resolutions: BC-03-26-20-

A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, BC-01-12-22-B, BC-03-23-22-A, BC-05-11-22-E. [3 O.C. 302.8-1]. The COVID-19 pandemic has resulted in vast negative economic effects that has affected the ability of members of the Nation to meet their general welfare needs.

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

The emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency adoption of this Law will assist in addressing the economic needs of the Reservation population during the public health crisis that has resulted from the COVID-19 pandemic by allowing the Nation to establish and operate the Oneida Nation Assistance Fund to provide assistance to members of the Nation in accordance with the Oneida General Welfare law.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest. The Nation is currently experiencing the vast economic effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation in meeting their general welfare needs during this COVID-19 pandemic.

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

Requested Action

Approve the Resolution: Emergency Adoption of the Oneida Nation Assistance Fund Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Emergency Adoption of the Oneida Nation Assistance Fund Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
2 recognized by the laws of the United States of America; and
3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
8
- 9 **WHEREAS,** the Oneida Nation Assistance Fund law (“the Law”) is being proposed for emergency
10 adoption in an effort to establish the Oneida Nation Assistance Fund as an approved
11 program of the Nation to govern how the Nation provides financial assistance to its
12 members, pursuant to the Oneida General Welfare law; and
13
- 14 **WHEREAS,** the Law provides how the Oneida Nation Assistance Fun qualifies for general welfare
15 exclusion; and
16
- 17 **WHEREAS,** the Law provides the eligibility requirements for accessing assistance from the Oneida
18 Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen
19 (18) or older; and submits a completed application during the designated submission
20 timeframe; and
21
- 22 **WHEREAS,** the Law provides the minimum requirements for the information that must be included on
23 the application for assistance from the Oneida Nation Assistance Fund; and
24
- 25 **WHEREAS,** the Law provides how and when funds from the Oneida Nation Assistance Fund are
26 disbursed; and
27
- 28 **WHEREAS,** the Law provides for the types of expenses that shall be considered qualifying expenditures
29 for use of assistance from Oneida Nation Assistance Fund by the recipient; and
30
- 31 **WHEREAS,** the Law provides information on the funding source and who determines that amount of
32 available funding to an eligible participant; and
33
- 34 **WHEREAS,** the Law provides that the Trust Enrollment Department is the department that has the
35 responsibilities to administer the Oneida Nation Assistance Fund; and
36
- 37 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
38 legislation on an emergency basis when legislation is necessary for the immediate
39 preservation of the public health, safety, or general welfare of the Reservation population,
40 and the adoption of the legislation is required sooner than would be possible under the
41 Legislative Procedures Act; and
42

- 43 **WHEREAS,** emergency adoption of legislation is effective for a period of six (6) months, renewable by
44 the Oneida Business Committee for an additional six (6) month term; and
45
- 46 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a *Declaration of Public Health State of*
47 *Emergency* regarding COVID-19 which declared a Public Health State of Emergency for
48 the Nation until April 12, 2020, which was subsequently extended by the Oneida Business
49 Committee until July 22, 2022, through the adoption of the following resolutions: BC-03-
50 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-
51 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, and
52 BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-
53 24-21-F, BC-01-12-22-B, BC-03-23-22-A, BC-05-11-22-E; and
54
- 55 **WHEREAS,** the COVID-19 pandemic has resulted in vast negative economic effects that has affected
56 the ability of members of the Nation to meet their general welfare needs; and
57
- 58 **WHEREAS,** the emergency adoption of this Law is necessary for the preservation of the general welfare
59 of the Reservation population, as the Law shall assist in addressing the economic needs
60 of the Reservation population during the public health crisis that has resulted from the
61 COVID-19 pandemic by allowing the Nation to establish and operate the Oneida Nation
62 Assistance Fund to provide assistance to members of the Nation in accordance with the
63 Oneida General Welfare law; and
64
- 65 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this
66 Law would be contrary to public interest since the Nation is currently experiencing the vast
67 economic effects of the COVID-19 pandemic, and the process and requirements of the
68 Legislative Procedures Act cannot be completed in time to ensure that the Law can be
69 adopted to best assist members of the Nation in meeting their general welfare needs during
70 this COVID-19 pandemic; and
71
- 72 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
73 when considering emergency legislation; and
74
- 75 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts, on an emergency
76 basis, the Oneida Nation Assistance Fund law effective immediately.



Statement of Effect

Emergency Adoption of the Oneida Nation Assistance Fund Law

Summary

This resolution adopts the Oneida Nation Assistance Fund law on an emergency basis in order to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: May 25, 2022

Analysis by the Legislative Reference Office

This resolution adopts the Oneida Nation Assistance Fund law (“the Law”) on an emergency basis. The purpose of the Law is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. The Law will:

- Establish the Oneida Nation Assistance Fund as an approved program of the Nation in accordance with the Oneida General Welfare law [10 O.C. 1003.4-1];
- Provide how this program qualifies for general welfare exclusion [10 O.C. 1003.4-2];
- Provide the eligibility requirements for accessing assistance from the Oneida Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen (18) or older; and submits a completed application during the designated submission timeframe [10 O.C. 1003.5-1];
- Provide the minimum requirements for the information that must be included on the application [10 O.C. 1003.5-3];
- Provide how and when funds from the Oneida Nation Assistance Fund are disbursed [10 O.C. 1003.5-2, 1003.5-4];
- Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from Oneida Nation Assistance Fund by the recipient [10 O.C. 1003.5-5];
- Provide information on the funding source and who determines that amount of available funding to an eligible participant [10 O.C. 1003.6-1, 1003.6-2]; and
- Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. [10 O.C. 1003.5-6, 1003.5-7].

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

In response to the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management law, Chairman Tehassi Hill signed a *Declaration of Public Health State of Emergency* regarding COVID-19 which was subsequently extended by the Oneida Business Committee until July 22, 2022, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, BC-01-12-22-B, BC-03-23-22-A, BC-05-11-22-E. [3 O.C. 302.8-1]. The COVID-19 pandemic has resulted in vast negative economic effects that has affected the ability of members of the Nation to meet their general welfare needs.

The resolution provides that the emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency adoption of this Law will assist in addressing the economic needs of the Reservation population during the public health crisis that has resulted from the COVID-19 pandemic by allowing the Nation to establish and operate the Oneida Nation Assistance Fund to provide assistance to members of the Nation in accordance with the Oneida General Welfare law.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this amendment would be contrary to public interest. The Nation is currently experiencing the vast economic effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation in meeting their general welfare needs during this COVID-19 pandemic.

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

Conclusion

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



EMERGENCY ADOPTION OF THE ONEIDA NATION ASSISTANCE FUND LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	<ul style="list-style-type: none"> ▪ Establish the Oneida Nation Assistance Fund as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1003.4-1]. ▪ Provide how this program qualifies for general welfare exclusion. [10 O.C. 1003.4-2]. ▪ Provide the eligibility requirements for accessing assistance from the Oneida Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen (18) or older; and submits a completed application during the designated submission timeframe. [10 O.C. 1003.5-1]. ▪ Provide the minimum requirements for the information that must be included on the application. [10 O.C. 1003.5-3]. ▪ Provide how and when funds from the Oneida Nation Assistance Fund are disbursed [10 O.C. 1003.5-2, 1003.5-4]. ▪ Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from Oneida Nation Assistance Fund by the recipient. [10 O.C. 1003.5-5]. ▪ Provide information on the funding source and who determines that amount of available funding to an eligible participant. [10 O.C. 1003.6-1, 1003.6-2]. ▪ Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. [10 O.C. 1003.5-6, 1003.5-7].
Purpose	To establish the Oneida Nation Assistance Fund to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1].
Affected Entities	Oneida Business Committee, Trust Enrollment Department
Public Meeting	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Oneida Nation Assistance Fund law will be a new law adopted by the Nation on an
- 3 emergency basis for the purpose of establishing the Oneida Nation Assistance Fund to govern how the
- 4 Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10
- 5 O.C. 1003.1-1].

- 6 ▪ On May 18, 2022, the Legislative Operating Committee called a meeting with the Oneida Law
7 Office, Finance Administration, Government Administration Office, and the Trust Enrollments
8 Department to discuss how the Nation planned to provide general welfare assistance payments to
9 its members this year, and the potential adoption of an Oneida Nation Assistance Fund law on an
10 emergency basis.

- 11 **B.** Emergency adoption of the Oneida Nation Assistance Fund law is being pursued to provide a
12 mechanism to address the economic needs of members of the Nation as a result of the COVID-19
13 pandemic.

15 **SECTION 3. CONSULTATION AND OUTREACH**

- 16 **A.** Representatives from the following departments or entities participated in the development of this Law
17 and legislative analysis:
 - 18 ▪ Oneida Law Office;
 - 19 ▪ Government Administration Office;
 - 20 ▪ Finance Administration; and
 - 21 ▪ Trust Enrollments Department.

23 **SECTION 4. PROCESS**

- 24 **C.** The adoption of this Law is being considered on an emergency basis. The Oneida Business Committee
25 may temporarily enact an emergency law where legislation is necessary for the immediate preservation
26 of public health, safety, or general welfare of the Reservation population and enactment of legislation
27 is required sooner than would be possible under this law. *[1 O.C. 109.9-5]*.
 - 28 ▪ Emergency adoption of this Law is being pursued for the preservation of the general welfare of the
29 Reservation population. The emergency adoption of this Law will assist in addressing the economic
30 needs of the Reservation population during the public health crisis that is the COVID-19 pandemic
31 by allowing the Nation to establish and operate the Oneida Nation Assistance Fund for the purpose
32 of providing assistance to Tribal members on a non-taxable basis.
 - 33 ▪ Observance of the requirements under the Legislative Procedures Act for the adoption of this Law
34 would be contrary to public interest. The Nation is currently experiencing the vast effects of the
35 COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot
36 be completed in time to ensure that the Law can be adopted to best assist members of the Nation
37 during this COVID-19 pandemic through the development of the Oneida Nation Assistance Fund
38 which provides assistance to Tribal members.
- 39 **D.** Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a
40 six (6) month extension of the emergency legislation. *[1 O.C. 109.9-5(b)]*.
- 41 **E.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
42 considering emergency legislation. *[1 O.C. 109.9-5(a)]*. However, a public meeting and fiscal impact
43 statement will eventually be required when considering permanent adoption of this Law.
- 44 **D.** The following work meetings were held regarding the development of this law and legislative analysis:
 - 45 ▪ May 12, 2022. LOC work meeting; and
 - 46 ▪ May 18, 2022. LOC work meeting with Oneida Law Office, Finance Administration, Government
47 Administration Office, and Trust Enrollment Department.

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

- 50 **A. Purpose and Policy.** The purpose of this law is to establish the Oneida Nation Assistance Fund to
51 govern how the Nation provides financial assistance to members, pursuant to the Oneida General
52 Welfare law. [10 O.C. 1003.1-1]. It is the policy of the Nation to prioritize the general welfare needs
53 of its members. [10 O.C. 1003.1-2]. The interests of the Nation are advanced when its members remain
54 confident that their general welfare needs can be met. [10 O.C. 1003.1-2].
- 55 **▪ Effect.** The overall purpose of this Law is to codify the Nation’s sovereign right to provide
56 assistance to Tribal members on a non-taxable basis through an approved program.
- 57 **B. Establishment.** This Law establishes the Oneida Nation Assistance Fund as an approved program of
58 the Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1]. The Oneida
59 Nation Assistance Fund meets the requirements of the General Test as defined in the Oneida General
60 Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements
61 of the Tribal General Welfare Exclusion Act of 2014 26 U.S.C. §139E(b). [10 O.C. 1003.4-1].
- 62 **C. Guidelines and Requirements.** The Law provides guidelines and requirements for the Oneida Nation
63 Assistance Fund. The Oneida Nation Assistance Fund shall be open to any individuals who meet the
64 following criteria: is a member of the Nation; is age eighteen (18) or older; and submits a completed
65 application during the designated submission timeframe [10 O.C. 1003.5-1]. The Oneida Business
66 Committee shall set forth, through the adoption of a resolution, an application submission period and
67 disbursement timeframe for a distribution of assistance from the Oneida Nation Assistance Fund. [10
68 O.C. 1003.5-2]. Any individual seeking assistance from the Oneida Nation Assistance Fund shall
69 submit an application. [10 O.C. 1003.5-3]. The Trust Enrollment Department shall make available an
70 Oneida Nation Assistance Fund application form and instructions. [10 O.C. 1003.5-3(a)]. The Law
71 provides the minimum information that is required to be provided on the application. [10 O.C. 1003.5-
72 3(a)(1)(A)-(I)]. Assistance provided through the Oneida Nation Assistance Fund Application shall be
73 disbursed in accordance with the timeframe set through resolution by the Oneida Business Committee.
74 [10 O.C. 1003.5-4]. Funds from the Oneida Nation Assistance Fund may be disbursed through direct
75 deposit, or check, depending on the selection made on the application by the recipient. [10 O.C. 1003.5-
76 4].
- 77 **D. Qualifying Expenditures.** The Law provides that the following types of expenses shall be considered
78 qualifying expenditures for use of assistance from the Oneida Nation Assistance Fund by the recipient:
- 79 a. costs relating to housing needs of principal residences such as:
 - 80 1. mortgage payments, rent payments, and down payments;
 - 81 2. enhancements for habitability of housing;
 - 82 3. basic housing repairs or rehabilitation;
 - 83 4. improvements to adapt housing for special health needs;
 - 84 b. costs for paying utility bills and charges, including, but not limited to, the following:
 - 85 1. water;
 - 86 2. electricity;
 - 87 3. gas;
 - 88 4. basic communication services such as:
 - 89 A. phone
 - 90 B. internet; and
 - 91 C. cable;
 - 92 c. costs associated with education, including, but not limited to the following:

- 93 1. transportation to and from school;
94 2. tutors;
95 3. supplies for use in school activities and extra-curricular activities;
96 4. providing tuition or room and board payments;
97 5. providing for childcare for parents seeking employment or pursuing education;
98 6. job counseling and interviewing expenses;
99 d. costs associated with food security;
100 e. costs associated with home care assistance;
101 f. costs associated with vehicle payments, maintenance, repair, and insurance;
102 g. costs associated with medical care and transportation, room, and board costs for seeking
103 medical care;
104 h. funeral and burial expenses and expenses for attending wakes, funerals, burials,
105 bereavements, and subsequent honoring events; and
106 i. costs related to any other emergency circumstance [10 O.C. 1002.5-5].
107 **E. Oversight and Records Maintenance.** The Trust Enrollment Department shall oversee the collection,
108 review, and permitted distribution of funds from the Oneida Nation Assistance Fund to the qualifying
109 recipients and shall be responsible for maintenance of records for the Oneida Nation Assistance Fund.
110 [10 O.C. 1003.5-6, 1003.5-7]. The recipient shall retain receipts for the expenditure of the funds
111 associated with the Oneida Nation Assistance Program. [10 O.C. 1003.5-7].
112 **F. Funding.** The Oneida Nation Assistance Fund shall be funded through the Nation’s annual budget, and
113 by any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1003.6-
114 1]. The Oneida Business Committee shall determine the amount of assistance available to an eligible
115 recipient from the Oneida Nation Assistance Fund per any permitted distribution. [10 O.C. 1003.6-2].
116

117 SECTION 6. EXISTING LEGISLATION

- 118 **A. Related Legislation.** The following laws of the Nation are related to this Law:
119 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
120 Council on January 7, 2013, for the purpose of providing a standard process for the adoption
121 of laws of the Nation which includes taking into account comments from members of the
122 Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
123 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
124 legislation when the legislation is necessary for the immediate preservation of the
125 public health, safety, or general welfare of the Reservation population and the
126 enactment or amendment of legislation is required sooner than would be possible under
127 this law. [1 O.C. 109.9-5].
128 ▪ The Legislative Operating Committee is responsible for first reviewing the
129 emergency legislation and for forwarding the legislation to the Oneida
130 Business Committee for consideration. [1 O.C. 109.9-5(a)].
131 ▪ The proposed emergency legislation is required to have a legislative analysis
132 completed and attached prior to being sent to the Oneida Business Committee
133 for consideration. [1 O.C. 109.9-5(a)].
134 a. A legislative analysis is a plain language analysis describing the
135 important features of the legislation being considered and factual
136 information to enable the Legislative Operating Committee to make

- 137 informed decisions regarding legislation. A legislative analysis
138 includes a statement of the legislation’s terms and substance; intent of
139 the legislation; a description of the subject(s) involved, including any
140 conflicts with Oneida or other law, key issues, potential impacts of the
141 legislation and policy considerations. [1 O.C. 109.3-1(g)].
- 142 ▪ Emergency legislation does not require a fiscal impact statement to be
143 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
 - 144 ▪ Upon the determination that an emergency exists the Oneida Business
145 Committee can adopt emergency legislation. The emergency legislation
146 becomes effective immediately upon its approval by the Oneida Business
147 Committee. [1 O.C. 109.9-5(b)].
 - 148 ▪ Emergency legislation remains in effect for a period of up to six (6) months,
149 with an opportunity for a one-time emergency law extension of up to six (6)
150 months. [1 O.C. 109.9-5(b)].
 - 151 ▪ Emergency adoption of this Law would conform with the requirements of the
152 Legislative Procedures Act.
 - 153 ▪ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation
154 provides assistance to eligible members on a non-taxable basis, pursuant to the principles of
155 the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits
156 to Tribal members. [10 O.C. 1001.1-1].
 - 157 ▪ The Oneida Nation Assistance Fund is hereby established as an approved program of
158 the Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1].
159 The Oneida Nation Assistance Fund meets the requirements of the General Test as
160 defined in the Oneida General Welfare Law. [10 O.C. 1003.4-2].

162 SECTION 7. OTHER CONSIDERATIONS

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

171

Title 10. General Welfare Exclusion - Chapter 1003
ONEIDA NATION ASSISTANCE FUND

1003.1. Purpose and Policy

1003.2. Adoption, Amendment, Repeal

1003.3. Definitions

1003.4. Establishment

1003.5. Guidelines and Requirements

1003.6. Funding

1 1003.1. Purpose and Policy

2 1003.1-1. *Purpose.* The purpose of this law is to establish the Oneida Nation Assistance Fund to
3 govern how the Nation provides financial assistance to its members, pursuant to the Oneida
4 General Welfare law.

5 1003.1-2. *Policy.* It is the policy of the Nation to prioritize the general welfare needs of its
6 members. The interests of the Nation are advanced when its members remain confident that their
7 general welfare needs can be met.

8

9 1003.2. Adoption, Amendment, Repeal

10 1003.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-
11 __.

12 1003.2-2. This law may be amended or repealed by the Oneida Business Committee or the General
13 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

14 1003.2-3. Should a provision of this law or the application thereof to any person or circumstances
15 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
16 to have legal force without the invalid portions.

17 1003.2-4. In the event of a conflict between a provision of this law and a provision of another law,
18 the provisions of this law shall control.

19 1003.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

20

21 1003.3. Definitions

22 1003.3-1. This section shall govern the definitions of words and phrases used within this law. All
23 words not defined herein shall be used in their ordinary and everyday sense.

24 (a) "Approved program" means any program(s) to provide general welfare assistance that
25 is intended to qualify as a General Welfare Exclusion, administered under specific
26 guidelines, and is adopted by the Oneida Business Committee through resolution or law of
27 the Nation in accordance with the Oneida General Welfare law.

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

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

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

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

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

41

42 **1003.4. Establishment**

43 1003.4-1. *Establishment.* The Oneida Nation Assistance Fund is hereby established as an
 44 approved program of the Nation in accordance with the Oneida General Welfare law. The purpose
 45 of the Oneida Nation Assistance Fund is to provide financial assistance to members of the Nation
 46 to address the general welfare needs of members.

47 1003.4-2. *General Welfare Exclusion.* The Oneida Nation Assistance Fund meets the
 48 requirements of the General Test as defined in the Oneida General Welfare law; General Criteria
 49 as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General
 50 Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b). The assistance provided through the Oneida
 51 Nation Assistance Fund is:

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

61

62 **1003.5. Guidelines and Requirements**

63 1003.5-1. *Eligibility.* The Oneida Nation Assistance Fund shall be open to any individual who
 64 meets the following criteria:

- 65 (a) is a member of the Nation;
- 66 (b) is age eighteen (18) or older; and
- 67 (c) submits a completed application during the designated submission timeframe.

68 1003.5-2. *Distribution Period.* The Oneida Business Committee shall set forth through the
 69 adoption of a resolution an application submission period and disbursement timeframe for a
 70 distribution of assistance from the Oneida Nation Assistance Fund.

71 1003.5-3. *Application for Funds.* Any individual seeking assistance from the Oneida Nation
 72 Assistance Fund shall submit an application.

73 (a) The Trust Enrollment Department shall make available an Oneida Nation Assistance
 74 Fund application form and instructions.

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

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

88 (2) On the application the applicant shall designate the means by which they would
 89 like to receive their disbursement of funds from the Oneida Nation Assistance Fund,
 90 either through direct deposit or check.

91 (b) Applicants shall complete and return the Oneida Nation Assistance Fund application
 92 form to the Trust Enrollment Department by the deadline set through resolution by the
 93 Oneida Business Committee in order to be eligible for assistance from the Oneida Nation
 94 Assistance Fund.

95 (1) The information provided in the Oneida Nation Assistance Fund application
 96 form may be provided to any department, division, or personnel that processes the
 97 applications.

98 1003.5-4. *Disbursement of Funds.* Assistance provided through the Oneida Nation Assistance
 99 Fund shall be disbursed in accordance with the timeframe set through resolution by the Oneida
 100 Business Committee. Funds from the Oneida Nation Assistance Fund may be disbursed through
 101 direct deposit, or check, depending on the selection made on the application by the recipient.

102 1003.5-5. *Qualifying Expenditures.* The following types of expenses shall be considered
 103 qualifying expenditures for use of assistance from the Oneida Nation Assistance Fund by the
 104 recipient:

- 105 (a) costs relating to housing needs of principal residences such as:
 106 (1) mortgage payments, rent payments, and down payments;
 107 (2) enhancements for habitability of housing;
 108 (3) basic housing repairs or rehabilitation;
 109 (4) improvements to adapt housing for special health needs;
- 110 (b) costs for paying utility bills and charges, including, but not limited to, the following:
 111 (1) water;
 112 (2) electricity;
 113 (3) gas;
 114 (4) basic communication services such as:
 115 (A) phone;
 116 (B) internet; and
 117 (C) cable;
- 118 (c) costs associated with education including, but not limited to:
 119 (1) transportation to and from school;
 120 (2) tutors;
 121 (3) supplies for use in school activities and extra-curricular activities;
 122 (4) providing tuition or room and board payments;
 123 (5) providing for childcare for parents seeking employment or pursuing education;
 124 (6) job counseling and interviewing expenses.
- 125 (d) costs associated with food security;
 126 (e) costs associated with home care assistance;
 127 (f) costs associated with vehicle payments, maintenance, repair, and insurance;
 128 (g) costs associated with medical care and transportation, room, and board costs for
 129 seeking medical care;
 130 (h) funeral and burial expenses and expenses for attending wakes, funerals, burials,
 131 bereavements, and subsequent honoring events; and
 132 (i) costs related to any other emergency circumstance.

133 1003.5-6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and

134 permitted distribution of funds from the Oneida Nation Assistance Fund to the qualifying
135 recipients.

136 1003.5-7. *Records Maintenance.* The Trust Enrollment Department shall be responsible for
137 maintenance of records for the Oneida Nation Assistance Fund. The recipient shall retain receipts
138 for the expenditure of the funds associated with the Oneida Nation Assistance Fund.

139

140 **1003.6. Funding**

141 1003.6-1. *Funding Source.* The Oneida Nation Assistance Fund shall be funded through the
142 Nation's annual budget, and by any other funding source deemed necessary by the Oneida
143 Business Committee.

144 1003.6-2. *Amount of Available Funding.* The Oneida Business Committee shall determine the
145 amount of assistance available to an eligible recipient from the Oneida Nation Assistance Fund
146 per any permitted distribution.

147

148 *End.*

~~149~~

151 Adopted – BC-__-__-__-__



HANDOUT

Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



Legislative Operating Committee June 1, 2022

Elder Assistance Program Law

Submission Date: 11/3/21	Public Meeting: 5/18/22
LOC Sponsor: David P. Jordan	Emergency Enacted: N/A

Summary: *This request for a new law was brought forward by Councilman David P. Jordan based on a recommendation from the Chief Financial Officer during the October 20, 2021, LOC meeting. This request asks 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.*

11/3/21 LOC: Motion by Marie Summers add the Elder Assistance Program law to the Active Files List with David Jordan as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

1/13/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the initial draft of the Law with the LOC and prepare for the work meeting next week with Finance, Oneida Law Office, Trust Enrollment Department, and Trust Enrollment Committee.

1/19/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Carl Artman, Keith Doxtator, Lawrence Barton. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussing with the Oneida Law Office, Finance, and Trust Enrollment Department the possibility of transitioning 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.

2/16/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss next steps for moving this legislative item forward.

2/22/22: *Work Meeting.* Present: Clorissa N. Santiago, Carl Artman. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was for Carl to gain more clarification on the purpose of the memorandum he is providing the Legislative Operating Committee.

2/25/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the draft of the Law and determine next steps for moving this item forward.

3/2/22 LOC: Motion by Marie Summers to accept the draft of the Oneida Elder Assistance Program law and defer to a work meeting for further discussion; seconded by Jennifer Webster. Motion carried unanimously.

3/10/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, 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 for the LOC to review and consider the input received from the Trust Enrollment Department Director and the General Manager.

3/16/22 LOC: Motion by Marie Summers to approve the updated draft of the Elder Assistance Program law and direct that a legislative analysis be developed; seconded by Jennifer Webster. Motion carried unanimously.

3/29/22: *Joint OBC and OTEC Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, Clorissa N. Santiago, Barbara Webster, Brandon Yellowbird-Stevens, Carl Artman, Geraldine Danforth, John Danforth, Keith Doxtator, Norbert Hill Jr., Sandra Skenandore, Shannon Davis, Tehassi Hill, Venessa Cardish, William Gollnick, Lisa Liggins, Terry Cornelius. This was a joint Oneida Business Committee and Oneida Trust Enrollment Committee meeting held through Microsoft Teams. The purpose of this meeting was to provide the OTEC and the OBC an opportunity to discuss and provide input on the Elder Assistance Program law.

4/14/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was for the LOC to review the public comment period notice.

4/20/22 LOC: Motion by Jennifer Webster to approve the legislative analysis and public meeting packet and forward the Elder Assistance Program law to a public meeting to be held on May 18, 2022; seconded by Marie Summers. Motion carried unanimously.

5/18/22: *Public Meeting Held.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Kirby Metoxen, Clorissa N. Santiago, Cheryl Aliskwet Ellis, Shannon Davis, Edward Delgado, Michael Denny, Barbara Cornelius, Carl Artman (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Gerald Sexton (Microsoft Teams), Jameson Wilson (Microsoft Teams), Jeanette Ninham (Microsoft Teams), Mark W. Powless (Microsoft Teams), Michelle Myers (Microsoft Teams), Matthew Cornelius (Microsoft Teams). The public meeting for the proposed Elder Assistance Program law was held in person in the Norbert Hill Center and on Microsoft Teams. Three (3) individuals provided public comment during the public meeting.

5/25/22: *Public Comment Period Closed.* Three (3) submissions of written comments were received during the public comment period.

Next Steps:

- Accept the public comments and the public comment review memorandum, and defer to a work meeting for further consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CMS*
DATE: June 1, 2022
RE: Elder Assistance Program Law: Public Comment Review

On May 18, 2022, a public meeting was held regarding the proposed Elder Assistance Program law (“the Law”). The public comment period was then held open until May 25, 2022. This memorandum is submitted as a review of the written comments received during the public comment period.

The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

Comment 1 – Possession of Knowledge of Elders:

1002.1. Purpose and Policy

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.

Edward Delgado (oral): Hey, thanks for this opportunity. Ohh, looking at this, generally, it sounds really good. Oh, all these benefits and on page four (4). You could really rake it in, a lot of stuff you can get. Uhh. However, I do have one question, a few questions. On line thirty-eight (38) it talks about elders. I'm unclear. Do we process all these, all this knowledge? Or do we possess it? Because it says process here, so it's kinda confusing. Uh, Myself, I feel as though I possess some of these things. I don't process anything. Well, not right anyway. Umm, I think you meant possess.

Response

The commenter references a grammatical error that was made within the legislative analysis. This error in the legislative analysis will be revised. There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 2 – Expiration of the Oneida General Welfare Law:

Edward Delgado (oral): Umm reminder, I have a question about no questions. But I do have a question. You don't have to answer it. A reminder that this is based on the General Welfare law. And the General Welfare law is due to expire soon. Uhh, trying to look at the different dates and the different see the July or somewhere around there, maybe October? I'm not sure. So, this law is based on that. So how can it last?

Response

The commenter questions how the Elder Assistance Program law can be promulgated under the authority of the Oneida General Welfare law if the Oneida General Welfare law is set to expire. The commenter is mistaken about the expiration of the Oneida General Welfare law. The Oneida General Welfare law was adopted by the Oneida Business Committee on a permanent basis on December 8, 2021, through the adoption of resolution BC-12-08-21-A. There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 3 – Involvement of the General Tribal Council:

Edward Delgado (oral): ? Uhh. Everybody likes the idea that we're not gonna pay taxes on this umm, but the scary part is that it gives all the authority to their Business Committee, uhh to determine amounts, when and if, and there's no regard to General, General Tribal Council. And, uhh, it's long standing role in determining those benefits. Uh, there's a part in the General Welfare law that says it all goes to GTC, I mean to the BC. And sole discretion upon the GTC. And you don't have to write it that way. I think it would still be possible as a tax exempt assistance program if you're just write that a little bit nicer to GTC, whereby it doesn't have to be sole discretion. You can include GTC somewhere where it has the ultimate authority on whether or not these assistance programs are determined. Uhh, I think that's about it.

Response

The commenter expresses displeasure with the idea of sole authority being provided to the Oneida Business Committee through the Law to determine the amounts of assistance provided through the Elder Assistance Program and the disbursement time periods, and desires instead that authority be provided to the General Tribal Council. The Oneida Business Committee does not have sole discretion as to the amounts of disbursements and timeframes for disbursements from the Elder Assistance Program. The Law provides that the Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall set forth through the adoption of a resolution an application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program. [10 O.C. 1002.5-2]. The Law also provides that the Oneida Trust

Enrollment Committee shall determine the amount of assistance available to an eligible recipient from the Elder Assistance Program per any permitted distribution. [10 O.C. 1002.6-2]. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1]. The Oneida Trust Enrollment Committee determines the amount of assistance available to an eligible recipient from the Elder Assistance Program because the Oneida Trust Enrollment Committee is the body responsible for the management of the Elder, Education and General Welfare Trust Fund. If the Oneida Business Committee determines that the Elder Assistance Program should be funded through an additional funding source than the Elder, Education and General Welfare Trust Fund, then ultimately the General Tribal Council has the authority to adopt the Nation's budget which may contain the allocation of additional funds. There is no revision to the Law recommended bases on this comment.

LOC Consideration

Comments 4 – Funding Source:

1002.6. Funding

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

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

Edward Delgado (oral): Ohh my last question was where is this coming from? What? Like money, usually determined by few per capita? Or is it coming through the, uhh, that seven hundred dollars (\$700) at sixty-five (65) year olds and over ger, uh, annually. Uh. From some kind of investments? That doesn't say it, but I don't know if this is the sum total of what elders get. Which was last year four thousand dollars (\$4000), and that was really nice. But these things are nice too, but I just don't think you should be giving all the authority to, to the Business Committee when we have a constitution and we have precedence where benefits go to GTC for approval, or at least we don't give it away. Thank you much.

Response

The commenter questions where the funding for the Elder Assistance Program is coming from. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-

17. The Oneida Trust Enrollment Committee determines the amount of assistance available to an eligible recipient from the Elder Assistance Program because the Oneida Trust Enrollment Committee is the body responsible for the management of the Elder, Education and General Welfare Trust Fund. There is no revision to the Law recommended bases on this comment.

LOC Consideration

Comments 5 through 6 – Specification of Annual Disbursements:

Michael Denny (oral): OK, thank you. I'm not gonna dwell on the legislative analysis. I wanna go right to the Law, how its written. Umm, and under policy, line eight (8) - Interests of the Nation are advanced when elders remain confident in their general welfare. I would like to insert the year yearly or annual after their and before general. Because the way this is written, it doesn't say that there will be an annual or yearly distribution. Also, under establishment, line forty-seven (47) - The Elder Assistance Program is to provide financial assistance to elders. Also there, behind provide and before financial assistance, insert yearly or annual. So we're aware of that these are yearly things. There's nothing in here to say that this will be done on a yearly basis. It may be inferred, but if it's not written down, how do we know it will occur? And also on line one hundred and thirty-five (135) under funding - The Elder Assistance program should be funded through the Elder Education and General Welfare Trust Fund. I also again would like to insert annually after the word funded. Through the elder because that pinpoints to the elders that this will be done on an annual basis. Right now, it doesn't say that. It just says that the Business Committee in conjunction with the Trust Committee, will set up a time. It doesn't say annual. And I think that should be pointed out. And that's all I have to say. I agree with the premise of the law. I just think that we could add the word annual or yearly in certain aspects. So we're clarified that the elders understand that this will be a yearly or an annual thing. That's all I have to say. Thank you.

Oneida Nation Commission on Aging (written): The following written comments concerning the proposed Elder Assistance Program, are brought forth on behalf of the ONCOA commissioners who met on 5-24-22.

1. Under Establishment, line 47, the insertion of the word annual, to read: provide annual financial assistance.
2. Under Guidelines and Requirements, line 71, the insertion of the word annual, to read: adoption of an annual resolution.
3. Under Guidelines and Requirements, line 102, the insertion of the word annual, to read: set through an annual resolution
4. Under 1002.6. Funding, line 135, the insertion of the word annually, to read: funded annually through.
5. Under 1002.6. Funding, line 141, to delete the words: per any permitted distribution.

Response

The commenters request that the Law be revised so that the Law provides that the Elder Assistance Program will provide *annual* assistance to elders. The Law provides that the Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall set forth through the adoption of a resolution an application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program. [10 O.C. 1002.5-2]. The Legislative Operating Committee decided to require the application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program to be set through resolution instead of including dates in the Law itself to allow for more flexibility. This added flexibility allows the Oneida Business Committee and the Oneida Trust Enrollment Committee to determine the application submission period and disbursement timeframe to best meet the needs of elders – this means that the Oneida Business Committee and the Oneida Trust Enrollment Committee can determine the best time of year to make a disbursement from the Elder Assistance Program, whether the Elder, Education and General Welfare Trust Fund has the funds available to make a disbursement during a given year, or whether multiple disbursements should be made in a given year.

Whether to require the Law to provide that disbursements from the Elder Assistance Program will be made on an annual basis is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program is set through resolution instead of including dates in the Law itself to allow for more flexibility.
2. The Law should be revised to require that disbursements from the Elder Assistance Program be made on an annual basis. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

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

LOC Consideration

Comment 7 – Application Form:

1002.5. Guidelines and Requirements

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

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

Mark W. Powless (oral): Yaw^ko. Well, first off, I wholly support this effort. From an implementation standpoint, currently, the GWA payments or GWE payments for membership are handled through the online portal. And, and in reading the proposed law, it appears there's it specifies an application form and I just want to make sure that there is no wording that that prohibits adding this payment option to the existing online application form for the overall GWA or GWE payments. So that's the first thing.

Response

The commenter wants to ensure that the Law will not prevent the Elder Assistance Program from using the same online application forms from other approved programs that provide assistance in accordance with the Oneida General Welfare law. The Law provides that Trust Enrollment Department shall make available an Elder Assistance Program application form and instructions. [10 O.C. 1002.5-3(a)]. The application is required, at a minimum, to collect the following information:

- first and last name;
- date of birth;
- street address, city, state, zip code;
- phone number;
- e-mail address;
- enrollment number;
- bank account information for direct deposit if necessary;
- declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation and federal law; and
- signature of the applicant, electronic or handwritten, affirming the attestation. [10 O.C. 1002.5-3(a)(1)(A)-(H)].

There is nothing in the Law that would prevent the Elder Assistance Program application from being combined with an application of another approved program that provides assistance in accordance with the Oneida General Welfare law as long as the minimum application requirements of section 1002.5-3(a)(1)(A)-(H) of the Law are met. There is no recommend revision to the Law based on this comment.

LOC Consideration

Comment 8 – Delegation of Responsibility to the Trust Enrollments Department:

1002.5. Guidelines and Requirements

1002.5-6. Oversight. The Trust Enrollment Department shall oversee the collection, review, and permitted distribution of funds from the Elder Assistance Program to the qualifying recipients.

1002.5-7. Records Maintenance. The Trust Enrollment Department shall be responsible for maintenance of records for the Elder Assistance Program. The recipient shall retain receipts for the expenditure of the funds associated with the Elder Assistance Program.

Mark W. Powless (oral): The second thing is, this is very specific, and it specifies that the Trust Enrollment Department will process the payment. We are in, uhh, talks to transfer all the payments or the process to do the payments to the Trust Enrollment Department. My only concern is if we if that transition which is not complete, if that transition is not successful, we'll have two different requirements for receiving GWA, GWA payments for our elders. So, they would have to go to if, if all payments are not moved into Trust Enrollments, then elders would have to go to one area to apply for one payment and another area to apply for another payment. So, if we are able to transfer all payments over to Trust Enrollments that'll be fine. Then there's a one stop shop. But if we're not, my worry is that the wording is so specific that it details that Trust Enrollments will handle these payments it may be best not to identify which department must handle the payment process. Thank you.

Response

The commenter expresses concern that the Law is specific in its designation of the Trust Enrollment Department as the area responsible for the oversight of the Elder Assistance Program, and how this may relate to other approved programs of the Nation that provide assistance under the Oneida General Welfare law. The Law provides that the Trust Enrollment Department shall oversee the collection, review, and permitted distribution of funds from the Elder Assistance Program to the qualifying recipients. [10 O.C. 1002.5-6]. The Trust Enrollment Department is responsible for making available an Elder Assistance Program application form and instructions, and is also responsible for the maintenance of records for the Elder Assistance Program. [10 O.C. 1002.5-3(a), 1002.5-7].

The Legislative Operating Committee is currently developing an Oneida Nation Assistance Fund law to be considered by the Oneida Business Committee for emergency adoption on June 8, 2022. The Oneida Nation Assistance Fund law codifies resolution BC-04-14-21-D, *Oneida Nation Assistance Fund*, and creates an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. It is the intent of the Oneida Nation Assistance Fund law that the Trust Enrollments Department be the body responsible for the collection, review, and permitted distribution of funds from the Oneida Nation Assistance Fund. Due to the fact that the Trust Enrollments Department is the body designated the responsibility to oversee both the Elder Assistance Program and the Oneida Nation Assistance Fund, the comments concern regarding consistency in the oversight of these two (2) approved programs is moot, and there is no revision to the Law recommended based on this comment.

LOC Consideration

Comments 9 through 10 – Replacement of Elder Per Capita:

Florence Petri (written): 1. Is this replacing the elder percentage?

Florence Petri (written): If this is replacing percapita, elders shouldn't have to apply

Response

The commenter questions if the Elder Assistance Program law is replacing the elder per capita payment, and if so, provides that elders should not have to apply. The Elder Assistance Program is not a per capita payment.

Per capita payments are the distribution of money to all members of the Nation, or to identified groups of members, which is paid directly from the net revenues of tribal gaming activity. Per capita payments made to members are taxable, and can be utilized by the member however they wish.

Approved programs under the Oneida General Welfare law, such as the Elder Assistance Program, are established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.4-3(a)]. The Oneida General Welfare law provides that any assistance provided through an approved program to a recipient shall be treated as a General Welfare Exclusion, and be non-taxable, as long as the following criteria of the General Test are met:

- The assistance is paid on behalf of the Nation;
- The assistance was provided pursuant to an approved program;
- The assistance does not discriminate in favor of members of the governing body of the Nation;
- The assistance is available to any member who meets the guidelines of the approved program;
- The assistance is provided for the promotion of general welfare;
- The assistance is not lavish or extravagant;
- The assistance is not compensation for services; and
- The assistance is not a per capita payment. [10 O.C. 1001.4-2, 1001.4-3].

General welfare assistance provided under an approved program of the Nation can only be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. Assistance provided through approved programs is funded through the Nation's budget, or through third-party funding if available. [10 O.C. 1001.5-3]. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1].

Overall, the Oneida General Welfare law provides a separate mechanism than per capita payments to provide assistance to members of the Nation on a non-taxable basis to best meet their general welfare needs. It is the intent of the Nation that the Elder, Education and General Welfare Trust

Fund will transition from funding elder per capita payments to funding elder general welfare assistance instead.

Both the Per Capita law and the Elder Assistance Program law require an individual to submit an application to be eligible to receive a payment. [1 O.C. 123.5-2, 10 O.C. 1002.5-3].

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 11 – Effect on Existing Programs:

Florence Petri (written): 2. Does this affect the Aging program Home repair program and major home program, Community Support program and burial fund?

Response

The commenter questions whether the Elder Assistance Program will effect the Nation’s home repair program, Community Support program, or burial fund program. No, the Elder Assistance Program will have no effect on existing programs of the Nation. The Elder Assistance Program is a separate approved program of the Nation which has been created for the purpose of providing financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders. [10 O.C. 1002.4-1]. There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 12 – Residency on Reservation Requirements:

1002.5. Guidelines and Requirements

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

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

Florence Petri (written): 3. Is this Reservation only?

Response

The commenter questions if residency on the Reservation will be a requirement to received assistance from the Elder Assistance Program. No, residency on the Reservation is not an eligibility requirement for the Oneida Nation Assistance Program. The Elder Assistance Program is open to any individual who is:

- A member of the Nation;
- Age sixty-five (65) or older; and
- Submits a completed application during the designated submission timeframe. [10 O.C. 1002.5-1(a)-(c)].

There is no revision to the Law recommended based on this comment.

LOC Consideration**Comment 13 – Declaration of Need:****1002.5. Guidelines and Requirements**

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

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

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

(H) declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation and federal law; and

Florence Petri (written): 4. Where do you get the declaration?

Response

The commenter questions where an individual can get the declaration that is required by section 1002.5-3(a)(1)(H) of the Law. The Law provides that the application must require a declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation and federal law. [10 O.C. 1002.5-3(a)(1)(H)]. It is intended that the individual be able to make this declaration right on the application for assistance from the Elder Assistance Program. Most recently, on a different application for assistance from an approved program of the Nation under the Oneida General Welfare law, the declaration was made on the application form by checking a box on the application. There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 14 – Release of Information:

1002.5. Guidelines and Requirements

1002.5-3(b)(1) The information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications.

Florence Petri (written): 5. Line 98-99. Instead of using any, use only to and specify. Will there be a Release of info form?

Response

The commenter questions if there will be a release of information form for the Elder Assistance Program. The Law provides that the information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications. [10 O.C. 1002.5-3(b)(1)]. Therefore, there will not be a release of information form for an individual to authorize the release of their information, as the Law already provides that the information may be shared with any department, division, or personnel that processes the application.

LOC Consideration

Comment 15 – Other Options:

Florence Petri (written): Other options: Instead of paying for home repairs, why don't tribe pay for policies that cover home repairs. Examples:

American Home Shield
Choice Home Warranty
First American

Instead of paying for Home Care Assistance, why don't tribe pay for Long Term Care Insurance policies. Example:

Medicare Supplements
Medicap policies

Tribe gets funds for an Information & Referral Specialist and Elder Benefits Specialist who can assist in these resources available for Home & Community based services. Aging and Disability resource centers are a critical entry point who provides options counseling and enrollment services to Family Care and Self direct programs

Shouldn't the tribe be payor of last resort after all other resources have been exhausted.

Response

The commenter questions the use of resources in the Elder Assistance Program, and whether it would be better suited if the Nation was a payor of last resort after other resources and services that are available to elders are utilized first. Overall, the purpose of this Law is to provide general welfare assistance to elders – in addition to any other program or service that may be out there – to ensure that the Nation’s elders remain confident that their general welfare needs can be met. [10 O.C. 1002.1-2]. Whether to create the Elder Assistance Program and provide general welfare assistance to the Nation’s elders is a policy decision for the Legislative Operating Committee, and the Legislative Operating Committee has determined to pursue the development of this law. There is no revision to the Law recommended based on this comment.

LOC Consideration**Comment 16 – Purpose of Law:****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.

Florence Petri (written): Not sure of the reasoning for this law or purpose.

Response

The commenter question the purpose of this Law. 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 and the Oneida General Welfare law. [10 O.C. 1002.1-1]. 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]. There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 17 – Qualifying Expenditures:

1002.5. Guidelines and Requirements

1002.5-5. *Qualifying Expenditures.* The following types of expenses shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:

- (a) costs relating to housing needs of principal residences such as:
 - (1) mortgage payments, rent payments, and down payments;
 - (2) enhancements for habitability of housing;
 - (3) basic housing repairs or rehabilitation;
 - (4) improvements to adapt housing for special health needs;
- (b) costs for paying utility bills and charges, including, but not limited to, the following:
 - (1) water;
 - (2) electricity;
 - (3) gas;
 - (4) basic communication services such as:
 - (A) phone;
 - (B) internet; and
 - (C) cable;
- (c) costs associated with food security;
- (d) costs associated with home care assistance;
- (e) costs associated with vehicle payments, maintenance, repair, and insurance;
- (f) costs associated with medical care and transportation, room, and board costs for seeking medical care;
- (g) funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and
- (h) costs related to any other emergency circumstance.

Florence Petri (written): Who determines what's considered qualifying expenses?

Response

The commenter questions who determines what is considered a qualifying expenditure. The Law provides that the following types of expenses shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:

- costs relating to housing needs of principal residences such as:
 - mortgage payments, rent payments, and down payments;
 - enhancements for habitability of housing;
 - basic housing repairs or rehabilitation;
 - improvements to adapt housing for special health needs;
- costs for paying utility bills and charges, including, but not limited to, the following:

- water;
- electricity;
- gas;
- basic communication services such as:
 - phone;
 - internet; and
 - cable;
- costs associated with food security;
- costs associated with home care assistance;
- costs associated with vehicle payments, maintenance, repair, and insurance;
- costs associated with medical care and transportation, room, and board costs for seeking medical care;
- funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and
- costs related to any other emergency circumstance. [10 O.C. 1002.5-5].

A recipient may use the assistance received from the Elder Assistance Program for any of the types of qualifying expenditures listed in section 1002.5-5 of the Law. The recipient is responsible for retaining receipts for the expenditure of the funds associated with the Elder Assistance Program. [10 O.C. 1002.5-7]. All assistance provided through an approved program shall be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program then the payment shall be deemed forfeited. *Id.* The Nation may secure repayment from any recipient who forfeited their assistance. *Id.*

There is no revision to the Law recommended based on this comment.

LOC Consideration

**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
145

146 Adopted – BC- _ _ - _ - _

Memorandum

TO: Legislative Reference Office

FROM: Michael Denny, Vice-Chair Oneida Nation Commission on Aging

DATE: May 25, 2022

RE: Public Hearing: Proposed Elder Assistance Program

The following written comments concerning the proposed Elder Assistance Program, are brought forth on behalf of the ONCOA commissioners who met on 5-24-22.

1. Under Establishment, line 47, the insertion of the word annual, to read: provide annual financial assistance.
2. Under Guidelines and Requirements, line 71, the insertion of the word annual, to read: adoption of an annual resolution.
3. Under Guidelines and Requirements, line 102, the insertion of the word annual, to read: set through an annual resolution
4. Under 1002.6. Funding, line 135, the insertion of the word annually, to read: funded annually through.
5. Under 1002.6. Funding, line 141, to delete the words: per any permitted distribution.

From: [\(920\) 833-8151](tel:9208338151)
To: [LOC](#)
Subject: Elder Assistance Program
Date: Monday, May 23, 2022 11:36:57 AM

Can someone please call me. I have a few other statements to this and it's hard writing from a phone

Thanks.

Florence Petri

920 833 8151

- 1. Is this replacing the elder percentage?**
- 2. Does this affect the Aging program Home repair program and major home program, Community Support program and burial fund?**
- 3. Is this Reservation only?**
- 4. Where do you get the declaration?**
- 5. Line 98-99. Instead of using any, use only to and specify. Will there be a Release of info form?**

From: (920) 833-8151
To: [LOC](#)
Subject: Elder Assistance Program Law
Date: Wednesday, May 25, 2022 3:46:52 PM

Comments:

-If this is replacing percapita, elders shouldn't have to apply

Other options:

Instead of paying for home repairs, why don't tribe pay for policies that cover home repairs. Examples:

American Home Shield

Choice Home Warranty

First American

Instead of paying for Home Care Assistance, why don't tribe pay for Long Term Care Insurance policies

Example:

Medicare Supplements

Medicap policies

Tribe gets funds for an Information & Referral Specialist and Elder Benefits Specialist who can assist in these resources available for Home & Community based services. Aging and Disability resource centers are a critical entry point who provides options counseling and enrollment services to Family Care and Self direct programs

Shouldn't the tribe be payor of last resort after all other resources have been exhausted.

Not sure of the reasoning for this law or purpose.

Who determines what's considered qualifying expenses?

Thank you

Florence Petri



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Elder Assistance Program Law

Business Committee Conference Room-2nd Floor Norbert Hill Center
May 4, 2022 12:15 p.m.

Present: David P. Jordan, Jennifer Webster, Marie Summers, Kirby Metoxen, Clorissa N. Santiago, Cheryl Aliskwet Ellis, Shannon Davis, Edward Delgado, Michael Denny, Barbara Cornelius, Carl Artman (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Gerald Sexton (Microsoft Teams), Jameson Wilson (Microsoft Teams), Jeanette Ninham (Microsoft Teams), Mark W. Powless (Microsoft Teams), Michelle Myers (Microsoft Teams), Matthew Cornelius (Microsoft Teams)

Jennifer Webster: Good Afternoon. The time is 12:15 p.m., today's date is Wednesday, May 18th, 2022. I will now call to order the public meeting for the proposed Elder Assistance Program law.

The Legislative Operating Committee is hosting this public meeting to gather feedback from the community regarding this legislative proposal. The public meeting is not a question and answer period. The LOC will review and consider all comments received during public comment period. The LOC will respond to all comments received in a memorandum, which will be submitted in the meeting materials of a future LOC meeting.

All persons who wish to present oral testimony in person need to register on the sign in sheet at the back of the room. If you leave an email address, on the sign in sheet, we can ensure you receive a copy of the public comment review memorandum. Individuals who wish to present oral testimony on Microsoft Teams, please raise your hand and you will be called on.

Additionally, written comments may be submitted to the Nation's Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business day on Wednesday, May 25, 2022.

So today in attendance from the LOC is David Jordan, Marie Summers, Kirby Metoxen, and myself, Jenny Webster.

The LOC may impose a time limit for all speakers pursuant to section 109.8-3(c) of the Legislative Procedures Act. As the presiding LOC member, I am imposing a time limit of five (5) minutes. This time limit shall be applied equally to all persons. And David, if I can count on you to keep time.

Barb we have a sign-in for oral testimony if you want to sign in. Okay.

We will now begin today's public meeting for the proposed Elder Assistance Program law. 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.

So those who wish to speak, please come to the microphone. And I see you're there – first up to speak is Edward Delgado. You have five (5) minutes.

Edward Delgado: Hey, thanks for this opportunity. Ohh, looking at this, generally, it sounds really good. Oh, all these benefits and on page four (4). You could really rake it in, a lot of stuff you can get. Uhh. However, I do have one question, a few questions. On line thirty-eight (38) it talks about elders. I'm unclear. Do we process all these, all this knowledge? Or do we possess it? Because it says process here, so it's kinda confusing. Uh, Myself, I feel as though I possess some of these things. I don't process anything. Well, not right anyway. Umm, I think you meant possess. Umm reminder, I have a question about no questions. But I do have a question. You don't have to answer it. A reminder that this is based on the General Welfare law. And the General Welfare law is due to expire soon. Uhh, trying to look at the different dates and the different see the July or somewhere around there, maybe October? I'm not sure. So, this law is based on that. So how can it last? Uhh. Everybody likes the idea that we're not gonna pay taxes on this umm, but the scary part is that it gives all the authority to their Business Committee, uhh to determine amounts, when and if, and there's no regard to General, General Tribal Council. And, uhh, it's long standing role in determining those benefits. Uh, there's a part in the General Welfare law that says it all goes to GTC, I mean to the BC. And sole discretion upon the GTC. And you don't have to write it that way. I think it would still be possible as a tax exempt assistance program if you're just write that a little bit nicer to GTC, whereby it doesn't have to be sole discretion. You can include GTC somewhere where it has the ultimate authority on whether or not these assistance programs are determined. Uhh, I think that's about it. Ohh my last question was where is this coming from? What? Like money, usually determined by few per capita? Or is it coming through the, uhh, that seven hundred dollars (\$700) at sixty-five (65) year olds and over ger, uh, annually. Uh. From some kind of investments? That doesn't say it, but I don't know if this is the sum total of what elders get. Which was last year four thousand dollars (\$4000), and that was really nice. But these things are nice too, but I just don't think you should be giving all the authority to, to the Business Committee when we have a constitution and we have precedence where benefits go to GTC for approval, or at least we don't give it away. Thank you much.

Jennifer Webster: Thank you Ed. Next up we have Michael Denny. You have five (5) minutes.

Michael Denny: OK, thank you. I'm not gonna dwell on the legislative analysis. I wanna go right to the Law, how its written. Umm, and under policy, line eight (8) - Interests of the Nation are advanced when elders remain confident in their general welfare. I would like to insert the year yearly or annual after their and before general. Because the way this is written, it doesn't say that there will be an annual or yearly distribution. Also, under establishment, line forty-seven (47) - The Elder Assistance Program is to provide financial assistance to elders. Also there, behind provide and before financial assistance, insert yearly or annual. So we're aware of that these are yearly things. There's nothing in here to say that this will be done on a yearly basis. It may be inferred, but if it's not written down, how do we know it will occur? And also on line one hundred and thirty-five (135) under funding - The Elder Assistance program should be funded through the

Elder Education and General Welfare Trust Fund. I also again would like to insert annually after the word funded. Through the elder because that pinpoints to the elders that this will be done on an annual basis. Right now, it doesn't say that. It just says that the Business Committee in conjunction with the Trust Committee, will set up a time. It doesn't say annual. And I think that should be pointed out. And that's all I have to say. I agree with the premise of the law. I just think that we could add the word annual or yearly in certain aspects. So we're clarified that the elders understand that this will be a yearly or an annual thing. That's all I have to say. Thank you.

Jennifer Webster: Thank you, Mike. Is there anybody else that would like to speak? Okay, I will check. I see Mark Powless' hand is up online. Go ahead, Mark.

Mark W. Powless: Yawáko. Well, first off, I wholly support this effort. From an implementation standpoint, currently, the GWA payments or GWE payments for membership are handled through the online portal. And, and in reading the proposed law, it appears there's it specifies an application form and I just want to make sure that there is no wording that that prohibits adding this payment option to the existing online application form for the overall GWA or GWE payments. So that's the first thing. The second thing is, this is very specific, and it specifies that the Trust Enrollment Department will process the payment. We are in, uhh, talks to transfer all the payments or the process to do the payments to the Trust Enrollment Department. My only concern is if we if that transition which is not complete, if that transition is not successful, we'll have two different requirements for receiving GWA, GWA payments for our elders. So, they would have to go to if, if all payments are not moved into Trust Enrollments, then elders would have to go to one area to apply for one payment and another area to apply for another payment. So, if we are able to transfer all payments over to Trust Enrollments that'll be fine. Then there's a one stop shop. But if we're not, my worry is that the wording is so specific that it details that Trust Enrollments will handle these payments it may be best not to identify which department must handle the payment process. Thank you.

Jennifer Webster: Thank you, Mark. Just checking online here to see if there's anybody else with their hand raised. Not seeing any hands. And with there being no more speakers registered, then the public meeting for the Elder Assistance Program law is now closed at 12:28 p.m. Thank you. Thank you for speaking. Written comments may be submitted until close of business day on Wednesday, May 25th. Again, that's Wednesday, May 25th, 2022. Thank you all for coming. Have a good afternoon. Thank you.

-End of Meeting-

June 2022

June 2022							July 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 29	30	31	Jun 1 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	2	3	4
5	6	7	8	9	10	11
12	13	14	15 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 12:15pm PUBLIC MEETING:	16	17	18
19	20	21	22	23 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	24	25
26	27	28	29	30 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	Jul 1	2