



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
June 15, 2022
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. June 1, 2022 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Elder Assistance Program Law (pg. 4)

IV. New Submissions

1. Oneida Personnel Policies and Procedures Amendments: Designation of Juneteenth as a Paid Holiday (pg. 38)

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
June 1, 2022
9:00 a.m.

Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Marie Summers (Microsoft Teams)

Excused: Daniel Guzman King

Others Present: Clorissa N. Santiago, Shannon Davis, Lawrence Barton, Amy Spears (Microsoft Teams), Nic Reynolds (Microsoft Teams), Iris Hill (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Kaylynn Gresham (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the June 1, 2022, Legislative Operating Committee meeting to order at 9:02 a.m.

Motion by Jennifer Webster to adopt the agenda with one addition, the Elder Assistance Program law; seconded by Marie Summers. Motion carried unanimously.

II. Minutes to be Approved

1. May 18, 2022 LOC Meeting Minutes

Motion by Jennifer Webster to approve the May 18, 2022, LOC meeting minutes and forward to the Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Healing to Wellness Court Law

Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, and updated legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Marie Summers to 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; seconded by Jennifer Webster. Motion carried unanimously.

IV. New Submissions

1. Emergency Adoption of the Oneida Nation Assistance Fund Law

Motion by Jennifer Webster to add the Oneida Nation Assistance Fund Law to the Active



Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

Motion by Jennifer Webster to approve the Oneida Nation Assistance Fund law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions

1. Elder Assistance Program Law

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

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Jennifer Webster to adjourn at 9:21 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee
June 15, 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.
- 6/1/22 LOC:** Motion by Kirby Metoxen to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Marie Summers. Motion carried unanimously.
- 6/1/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was for the LOC to review and consider the public comments received.

Next Steps:

- Approve the updated public comment review memorandum, draft, legislative analysis and fiscal impact statement request memorandum forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by July 14, 2022.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CMS*
DATE: June 15, 2022
RE: Elder Assistance Program Law: Public Comment Review with LOC Consideration

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. The Legislative Operating Committee reviewed and considered each public comment received on June 1, 2022. This memorandum serves as a review of the written comments received during the public comment period.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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 based on this comment.

LOC Consideration

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Legislative Operating Committee does plan to encourage the Trust Enrollment Department and Oneida Trust Enrollment Committee to work with the Nation's Treasurer to discuss and plan for the future longevity and sustainability of the Elder, Education and General Welfare Trust Fund.

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. 1002.6-1]. 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. There is no revision to the Law recommended bases on this comment.

LOC Consideration

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Law is clear that 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 Legislative Operating Committee also discussed the comments about the authority of the General Tribal Council and the Oneida Business Committee and wanted to clarify any misconceptions. Article III Section 1 of the Constitution and Bylaws of the Oneida Nation provides that the General Tribal Council is the governing body of the Oneida Nation. Article III Section 3 then provides that the qualified voters of the Oneida Nation shall elect the Business Committee which shall perform such duties as may be authorized by the General Tribal Council. The Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the General Tribal Council.

Additionally, it is important to note that the General Tribal Council delegated the authority to develop and adopt legislation for the Nation to the Legislative Operating Committee and the Oneida Business Committee through the adoption of the Legislative Procedures Act (“the LPA”) through resolution GTC-01-07-13-A. The purpose of the LPA is to provide a process for the adoption of laws of the Nation that has been sanctioned by the General Tribal Council. [1 O.C. 109.1-1]. The development of this Law, as well as the development of the Oneida General Welfare law, has conformed with the process and procedure contained in the LPA.

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 to allow for more flexibility in determining how best to meet the needs of the Nation's elders.
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

The Legislative Operating Committee was not in favor of revising the Law to be specify annual disbursements from the Elder Assistance Program, and instead determined that 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 to allow for more flexibility in determining how best to meet the needs of the Nation's elders. The Legislative Operating Committee discussed how the COVID-19 pandemic taught them the lesson that the Nation needs to be able to pivot when necessary to address its financial needs, and therefore it is important that the Law provides flexibility to the Elder Assistance Program in determining its disbursements. The Legislative Operating Committee also discussed that the Elder Assistance Program is contingent on the availability of funds from the Elder, Education and General Welfare Trust Fund. [10 O.C. 1002.6-1]. Although the Oneida Business Committee may utilize any other funding source as deemed necessary, the Oneida Business Committee is not required to obligate additional funds to the Elder Assistance Program other than what is provided through the Elder, Education and General Welfare Trust Fund. If there was a time where funding is not available through the Elder, Education and General Welfare Trust Fund, then there may not be a disbursement made through the Elder Assistance Program. Assistance provided under an approved program of the Nation is not guaranteed, and assistance shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. [10 O.C. 1001.6-1]. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. [10 O.C. 1001.6-2]. The Legislative Reference Office wanted to ensure that the Law is clear that the Elder Assistance Program is contingent on funding from the Elder, Education and General Welfare Trust Fund, and therefore directed that the following revision be made to the Law:

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; The Oneida Business Committee may obligate additional funding to the Elder Assistance Program through ~~and~~ any other funding source deemed necessary by the Oneida Business Committee. Use of the Elder Assistance Program is contingent upon available funding from the Elder, Education and General Welfare Trust Fund.

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

The Legislative Operating Committee agreed that 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. The Legislative Operating Committee also determined that an applicant's middle name should be required on the application. The Legislative Operating Committee directed the following revision be made to the Law:

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:

- (A) first, ~~middle~~, and last name;
- (B) date of birth;
- (C) street address, city, state, zip code;
- (D) phone number;
- (E) e-mail address;
- (F) enrollment number;
- (G) bank account information for direct deposit if necessary;
- (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
- (I) signature of the applicant, electronic or handwritten, affirming the ~~attestation~~ declaration.

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 commenters 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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which was derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund. [10 O.C. 1002.6-1]. The Oneida Business Committee may also fund the Elder Assistance Program through any other funding source in addition to the Elder, Education and General Welfare Trust Fund if deemed necessary. *Id.* Other programs of the Nation such as the Community Support Fund and the Oneida Life Insurance Plan Plus (OLIPP) are funded through other separate means.

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 questioned if residency on the Reservation will be required 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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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 questioned 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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

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

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

**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 Oneida~~ General Welfare ~~Exclusion~~law.

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, middle, 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 declaration.

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.~~ The Oneida Business Committee may obligate additional
138 funding to the Elder Assistance Program through any other funding source deemed necessary by
139 the Oneida Business Committee. Use of the Elder Assistance Program is contingent upon available
140 funding from the Elder, Education and General Welfare Trust Fund.

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

144
145 *End.*

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148

Adopted – BC-__-__-__-__

**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 Oneida General Welfare law.

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, middle, 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 declaration.

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. The Oneida Business Committee may obligate additional funding
138 to the Elder Assistance Program through any other funding source deemed necessary by the Oneida
139 Business Committee. Use of the Elder Assistance Program is contingent upon available funding
140 from the Elder, Education and General Welfare Trust Fund.

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

144
145 *End.*

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Adopted – BC-__-__-__-__



ELDER ASSISTANCE PROGRAM 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 Elder Assistance Program as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1002.4-1]. ▪ Provide how this program qualifies for general welfare exclusion. [10 O.C. 1002.4-2]. ▪ Provide the eligibility requirements for accessing assistance from the Elder Assistance Program – which is that a person is a member of the Nation; age sixty-five (65) or older; and submits a completed application during the designated submission timeframe. [10 O.C. 1002.5-1]. ▪ Provide the minimum requirements for the information that must be included on the application. [10 O.C. 1002.5-3]. ▪ Provide how and when funds from the Elder Assistance Program are disbursed [10 O.C. 1002.5-2, 1002.5-4]. ▪ Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from Elder Assistance Program by the recipient. [10 O.C. 1002.5-5]. ▪ Provide information on the funding source and who determines that amount of available funding to an eligible participant. [10 O.C. 1002.6-1, 1002.6-2]. ▪ Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Elder Assistance Program. [10 O.C. 1002.5-6, 1002.5-7].
Purpose	The purpose of this law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion. [10 O.C. 1002.1-1].
Affected Entities	Oneida Business Committee, Oneida Trust Enrollment Department, the Nation’s Elders
Related Legislation	Oneida General Welfare Law
Public Meeting	A public meeting was held in accordance with the Legislative Procedures Act on May 18, 2022, with a public comment period held open until May 25, 2022.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

1
 2 **A. Background.** The Elder Assistance Program law (“the Law”) will be a new law adopted by the Nation
 3 for the purpose of establishing the Elder Assistance Program to govern how the Nation provides
 4 financial assistance to elders, pursuant to the principles of General Welfare Exclusion. [10 O.C. 1002.1-
 5 1]. The request to develop an Elder Assistance Program Law came from Councilman David P. Jordan
 6 based on a recommendation from the Chief Financial Officer during the October 20, 2021, LOC
 7 meeting. This request asked the LOC to consider developing a new law to establish an approved
 8 program under the Oneida General Welfare law which transitions the Nation’s Elderly 65+ Per Capita

9 Payment Distribution Fund, from being utilized for per capita payments to being utilized for general
10 welfare assistance payments for elders.
11

12 SECTION 3. CONSULTATION AND OUTREACH

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

- 15 ▪ Oneida Law Office;
 - 16 ▪ Oneida Business Committee;
 - 17 ▪ Finance Administration;
 - 18 ▪ Trust Enrollment Department; and
 - 19 ▪ Oneida Trust Enrollment Committee.
- 20

21 SECTION 4. PROCESS

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

- 23 ▪ On November 3, 2021, the Legislative Operating Committee added this Law to its Active Files
24 List.
- 25 ▪ On March 16, 2022, the Legislative Operating Committee approved the draft of this Law and
26 directed that a legislative analysis be developed.
- 27 ▪ On April 20, 2022, the Legislative Operating Committee approved the legislative analysis and
28 the public meeting packet and forwarded the Law to a public meeting to be held on May 18,
29 2022.
- 30 ▪ The public meeting was held on May 18, 2022, in person in the Norbert Hill Center and on
31 Microsoft Teams. Three (3) individuals provided public comment during the public meeting.
- 32 ▪ The public comment period was held open until May 25, 2022. Three (3) submissions of written
33 comments were received during the public comment period.
- 34 ▪ On June 1, 2022, the Legislative Operating Committee accepted the public comments and the
35 public comment review memorandum and deferred these items to a work meeting for further
36 consideration.
- 37 ▪ On June 1, 2022, the Legislative Operating Committee reviewed and considered all the public
38 comments received.

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

- 41 ▪ January 13, 2022: LOC work meeting.
 - 42 ▪ January 19, 2022: LOC work meeting with the Oneida Law Office, Finance, and the Trust
43 Enrollment Department.
 - 44 ▪ February 16, 2022: LOC work meeting.
 - 45 ▪ February 22, 2022: Work meeting with Oneida Law Office.
 - 46 ▪ February 25, 2022: LOC work meeting.
 - 47 ▪ March 10, 2022: LOC work meeting.
 - 48 ▪ March 29, 2022: Joint Oneida Business Committee and Oneida Trust Enrollment Committee
49 Meeting.
 - 50 ▪ April 14, 2022: LOC work meeting.
 - 51 ▪ June 1, 2022: LOC work meeting.
- 52

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

54 **A. *Purpose and Policy.*** The purpose of this Law is to establish the Elder Assistance Program to govern
55 how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare
56 Exclusion. [10 O.C. 1002.1-1]. It is the policy of the Nation to prioritize the general welfare needs of
57 its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge,
58 skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The
59 interests of the Nation are advanced when its elders remain confident that their general welfare needs
60 can be met. [10 O.C. 1002.1-2].

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

66 **C. *Guidelines and Requirements.*** The Law provides guidelines and requirements for the Elder Assistance
67 Program. The Elder Assistance Program shall be open to any individuals who meet the following
68 criteria: is a member of the Nation; is age sixty-five (65) or older; and submits a completed application
69 during the designated submission timeframe [10 O.C. 1002.5-1]. The Oneida Business Committee shall
70 set forth, through the adoption of a resolution, an application submission period and disbursement
71 timeframe for a distribution of assistance from the Elder Assistance Program. [10 O.C. 1002.5-2]. Any
72 individual seeking assistance from the Elder Assistance Program shall submit an application. [10 O.C.
73 1002.5-3]. The Trust Enrollment Department shall make available an Elder Assistance Program
74 application form and instructions. [10 O.C. 1002.5-3(a)]. The Law provides the minimum information
75 that is required to be provided on the application. [10 O.C. 1003.5-2(a)(1)(A)-(I)]. Assistance provided
76 through the Elder Assistance Program application shall be disbursed in accordance with the timeframe
77 set through resolution by the Oneida Business Committee. [10 O.C. 1003.5-4]. Funds from the Elder
78 Assistance Program may be disbursed through direct deposit, or check, depending on the selection
79 made on the application by the recipient. [10 O.C. 1002.5-4].

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

- 82 ▪ costs relating to housing needs of principal residences such as:
 - 83 ▪ mortgage payments, rent payments, and down payments;
 - 84 ▪ enhancements for habitability of housing;
 - 85 ▪ basic housing repairs or rehabilitation;
 - 86 ▪ improvements to adapt housing for special health needs;
- 87 ▪ costs for paying utility bills and charges, including, but not limited to, the following:
 - 88 ▪ water;
 - 89 ▪ electricity;
 - 90 ▪ gas;
 - 91 ▪ basic communication services such as:
 - 92 ▪ phone
 - 93 ▪ internet; and
 - 94 ▪ cable;
- 95 ▪ costs associated with food security;
- 96 ▪ costs associated with home care assistance;

- 97 ▪ costs associated with vehicle payments, maintenance, repair, and insurance;
98 ▪ costs associated with medical care and transportation, room, and board costs for seeking
99 medical care;
100 ▪ funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements,
101 and subsequent honoring events; and
102 ▪ costs related to any other emergency circumstance [10 O.C. 1002.5-5].
- 103 **E. Oversight and Records Maintenance.** The Trust Enrollment Department shall oversee the collection,
104 review, and permitted distribution of funds from the Elder Assistance Program to the qualifying
105 recipients and shall be responsible for maintenance of records for the Elder Assistance Program [10
106 O.C. 1002.5-6; 10 O.C. 1002.5-7]. The recipient shall retain receipts for the expenditure of the funds
107 associated with the Elder Assistance Program. [10 O.C. 1002.5-7].
- 108 **F. Funding.** The Elder Assistance program shall be funded through the Elder, Education and General
109 Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award 75 Trust Fund. [10
110 O.C. 1002.6-1]. The Oneida Business Committee may obligate additional funding to the Elder
111 Assistance Program through any other funding source deemed necessary by the Oneida Business
112 Committee. *Id.* Use of the Elder Assistance Program is contingent upon available funding from the
113 Elder, Education and General Welfare Trust Fund. *Id.* The Oneida Trust Enrollment Committee shall
114 determine the amount of assistance available to an eligible recipient from the Elder Assistance Program
115 per any permitted distribution. [10 O.C. 1002.6-2].
116

117 SECTION 6. RELATED LEGISLATION

- 118 **A. Related Legislation.** The following laws of the Nation are related to this Law:
119 ▪ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation
120 provides assistance to eligible members on a non-taxable basis, pursuant to the principles of
121 the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits
122 to Tribal members. [10 O.C. 1001.1-1].
123 ▪ The Elder Assistance Program is hereby established as an approved program of the
124 Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1002.4-1]. The
125 Elder Assistance Program meets the requirements of the General Test as defined in the
126 Oneida General Welfare Law. [10 O.C. 1002.4-2].

127 SECTION 7. OTHER CONSIDERATIONS

- 128 **A. Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.
129 a. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
130 except emergency legislation. [1 O.C. 109.6-1].
131 i. A fiscal impact statement shall be submitted by agencies as directed by the Legislative
132 Operating Committee. [1 O.C. 109.6-1].
133 ii. Fiscal Impact statements may be prepared by any agency who may receive funding if
134 the legislation is enacted, any agency who may administer a program if the legislation
135 is enacted, any agency who may have financial information concerning the subject
136 matter of the legislation, or by the Finance Office, upon request of the Legislative
137 Operating Committee. [1 O.C. 109.6-1(a) and (b)].
138 iii. Oneida Business Committee resolution BC-10-28-20-A titled, “Further Interpretation
139 of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,” provides further
140 clarification on who the Legislative Operating Committee may direct complete a

- 141 fiscal impact statement at various stages of the legislative process, as well as
142 timeframes for completing the fiscal impact statement.
- 143 b. *Conclusion.* The Legislative Operating Committee has not yet requested that a fiscal impact
144 statement be developed for this law.
- 145



TO: Cristina Danforth, Treasurer
Lawrence E. Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer
FROM: David P. Jordan, Legislative Operating Committee Chairman
DATE: June 15, 2022
RE: Elder Assistance Program Law Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing the Elder Assistance Program 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 15, 2022, the Legislative Operating Committee approved the final draft of the proposed Elder Assistance Program law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed Elder Assistance Program law by July 14, 2022.

A copy of the proposed Elder Assistance Program 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 Elder Assistance Program law by July 14, 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: June 8, 2022
- 2) Contact Person(s): Oneida Business Committee
Dept: Oneida Business Committee
Phone Number: N/A Email: N/A
- 3) Agenda Title: Oneida Personnel Policies and Procedures Amendments: Designation of Juneteenth as a Paid Holiday
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
On June 8, 2022, the Oneida Business Committee adopted a motion to support the designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence Day and forward to the Legislative Operating Committee for review.

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

- 1) Excerpt from the 6/8/22 OBC Meeting Materials
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Oneida Personnel Policies and Procedures
- 6) Please list all other departments or person(s) you have brought your concern to:
N/A
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:

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

Signature of Requester:
Not Applicable - OBC Motion

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

Support the designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National...

Business Committee Agenda Request

1. Meeting Date Requested: 06/8/22

2. Session:

Open Executive – must qualify under §107.4-1.

Justification: *Choose or type justification.*

3. Requested Motion:

Accept as information; OR

Support the designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence Day and forward to the Legislative Operating Committee for review.

4. Areas potentially impacted or affected by this request:

- Finance
- Law Office
- Gaming/Retail
- Other: Legislative Reference Office & Human Resource Department
- Programs/Services
- MIS
- Boards, Committees, or Commissions

5. Additional attendees needed for this request:

Todd Vandenheuvel, Executive HR Director

Name, Title/Entity OR Choose from List

Name, Title/Entity OR Choose from List

Name, Title/Entity OR Choose from List

6. Supporting Documents:

- | | | |
|---|--|---|
| <input type="checkbox"/> Bylaws | <input type="checkbox"/> Fiscal Impact Statement | <input type="checkbox"/> Presentation |
| <input type="checkbox"/> Contract Document(s) | <input type="checkbox"/> Law | <input type="checkbox"/> Report |
| <input type="checkbox"/> Correspondence | <input type="checkbox"/> Legal Review | <input type="checkbox"/> Resolution |
| <input type="checkbox"/> Draft GTC Notice | <input type="checkbox"/> Minutes | <input type="checkbox"/> Rule (adoption packet) |
| <input type="checkbox"/> Draft GTC Packet | <input type="checkbox"/> MOU/MOA | <input type="checkbox"/> Statement of Effect |
| <input type="checkbox"/> E-poll results/back-up | <input type="checkbox"/> Petition | <input type="checkbox"/> Travel Documents |
| <input type="checkbox"/> Other: <i>Describe</i> | | |

7. Budget Information:

- | | |
|---|--|
| <input type="checkbox"/> Budgeted – Tribal Contribution | <input type="checkbox"/> Budgeted – Grant Funded |
| <input type="checkbox"/> Unbudgeted | <input type="checkbox"/> Not Applicable |
| <input type="checkbox"/> Other: <i>Describe</i> | |

8. Submission:

Authorized Sponsor: Lisa Liggins, Secretary

Primary Requestor: Danelle Wilson, Executive Assistant



Memorandum

TO: Oneida Business Committee

FROM: Lisa Liggins, Secretary 

DATE: June 2, 2022

RE: Juneteenth National Independence Day

The purpose of this memorandum is to request the Business Committee to support the designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence Day.

Background

On June 17, 2021, President Joe Biden signed the Juneteenth National Independence Day Act (P.L. 117-71) into law. The act designates June 19 as Juneteenth National Independence Day. Please see attached for additional information. As of today, 49 states and the District of Columbia have passed legislation recognizing Juneteenth as a holiday or an observance.

Requested Action

Support the designation of June 19 as an Oneida Nation paid holiday for the Juneteenth National Independence Day and forward to the Legislative Operating Committee for review.

**INSIGHT**

Juneteenth National Independence Day: A New Federal Holiday

Updated January 13, 2022

On June 17, 2021, President Joe Biden [signed the Juneteenth National Independence Day Act \(P.L. 117-71\)](#) into law. It had passed the [Senate](#) on June 15 and the [House of Representatives](#) on June 16. The act amends [Section 6103\(a\)](#), Title 5 of the *United States Code* to designate June 19 as Juneteenth National Independence Day.

In the 117th Congress, two companion bills—H.R. 1320 and S. 475—were both introduced on February 25, 2021. In the 116th Congress (2019-2020), [legislation was introduced](#) to create a federal holiday and the [House](#) and [Senate](#) also agreed to resolutions honoring Juneteenth. Legislation to designate Juneteenth as a federal holiday had not been introduced prior to the 116th Congress.

After he signed P.L. 117-17 (S. 475) into law, President Biden [issued a proclamation](#) to celebrate the observance of Juneteenth. In part, the proclamation read

On June 19, 1865—nearly nine decades after our Nation’s founding, and more than 2 years after President Lincoln signed the Emancipation Proclamation—enslaved Americans in Galveston, Texas, finally received word that they were free from bondage. As those who were formerly enslaved were recognized for the first time as citizens, Black Americans came to commemorate Juneteenth with celebrations across the country, building new lives and a new tradition that we honor today. In its celebration of freedom, Juneteenth is a day that should be recognized by all Americans. And that is why I am proud to have consecrated Juneteenth as our newest national holiday.

On June 17, 2021, the [United States Office of Personnel Management \(OPM\)](#) issued [guidance on the recognition of Juneteenth National Independence Day](#) in the federal workplace. In addition to providing guidance on the application of the federal holiday to various employment categories, OPM noted that Juneteenth fell on a Saturday in 2021, and that the holiday would be observed on Friday, June 18, the same “[in lieu of](#)” policy employed when other federal holidays fall on a weekend.

Juneteenth

On June 19, 1865, Major General Gordon Granger of the Union Army issued [General Order No. 3](#) in Galveston, TX. The order [announced to the people of Texas](#) that the [Emancipation Proclamation’s](#) freeing of enslaved people in the Confederate states was in effect. Specifically, General Order No. 3 stated

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The people of Texas are informed that, in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of personal rights and rights of property between former masters and slaves, and the connection heretofore existing between them, becomes that between employer and hired labor. The Freedmen are advised to remain at their present homes, and work for wages. They are informed that they will not be allowed to collect at military posts; and that they will not be supported in idleness either there or elsewhere.

Since the issuance of General Order No. 3, the observance of [Juneteenth](#) on June 19 has evolved. Today, 49 states and the District of Columbia have passed legislation recognizing Juneteenth as a holiday or observance (see Table 1 in CRS Report R44865, *Juneteenth: Fact Sheet*, by Erin M. Smith).

Federal Holidays

With the enactment of S. 475 and the creation of the Juneteenth National Independence Day, the United States now has [12 permanent federal holidays](#), codified at [5 U.S.C. §6103](#). They are, in the order they appear in the calendar, New Year’s Day, Martin Luther King Jr.’s Birthday, Inauguration Day (every four years following a presidential election), George Washington’s Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. Although frequently called public or national days, these observances are only legally applicable to federal employees and the District of Columbia, as the states individually decide their own legal holidays (see [5 C.F.R. §610.202](#)). According to the Office of Personnel Management (OPM), for the public holidays codified at 5 U.S.C. §6103, “[full-time employees who are not required to work on a holiday receive their rate of basic pay for the applicable number of holiday hours.](#)”

The first four federal holidays were created in 1870, when Congress granted paid time off to federal workers in the District of Columbia for [New Year’s Day](#), [Independence Day](#), [Thanksgiving Day](#), and [Christmas Day](#). In 1880, [George Washington’s Birthday](#) was added. In 1941, Congress specifically designated the fourth Thursday of November as the official date for the observance of Thanksgiving. Prior to that time, Thanksgiving was recognized either on the third or fourth Thursday of November.

Since 1888, Congress has added seven federal holidays, creating [Decoration Day](#) (now Memorial Day) in 1888, [Labor Day](#) in 1894, [Armistice Day](#) (now Veterans Day) in 1938, [Inauguration Day](#) in 1957 (quadrennially and only celebrated in the District of Columbia), [Columbus Day](#) in 1968, [Martin Luther King Jr.’s Birthday](#) in 1983, and [Juneteenth National Independence Day](#) in 2021. Further, in 1968, the [Uniform Monday Holiday Act](#) was enacted to “provide for uniform annual observances” of Washington’s Birthday (referred to as Presidents’ Day by many states and municipalities), Memorial Day, and Veterans Day. Additionally, the Monday Holiday Law established Columbus Day to be celebrated on the second Monday in October. In 1975, [Congress returned](#) the Veterans Day observance to November 11.

For more information on federal holidays, see CRS Report R41990, *Federal Holidays: Evolution and Current Practices*, by Jacob R. Straus.

Author Information

Jacob R. Straus
Specialist on the Congress

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June 2022

June 2022							July 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4						1	2
5	6	7	8	9	10	11	3	4	5	6	7	8	9
12	13	14	15	16	17	18	10	11	12	13	14	15	16
19	20	21	22	23	24	25	17	18	19	20	21	22	23
26	27	28	29	30			24	25	26	27	28	29	30
							31						

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	9:30am LRO Files Review (BC_Exec_Conf_Room) - Clorissa N. Santiago	10:00am LRO Outlook and Website Review (BC_Exec_Conf_Room) - Clorissa N. Santiago	9	10	11
12	13	9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 12:15pm PUBLIC MEETING:	16	17	18
19	9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	21	22	9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	24	25
26	9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	28	29	9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	Jul 1	2