



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
September 21, 2022
9:00 a.m.

- I. Call to Order and Approval of the Agenda**

- II. Minutes to be Approved**
 - 1. September 7, 2022 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 - 1. Oneida Nation Assistance Fund Law (pg. 4)

- IV. New Submissions**
 - 1. Back Pay Law Amendments (pg. 16)

- 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
September 7, 2022
9:00 a.m.

In accordance with the Norbert Hill Center's policy for administrative offices, and Brown County's current HIGH COVID-19 Community Levels, the September 7, 2022, Legislative Operating Committee meeting will be held virtually on Microsoft Teams.

Present: David P. Jordan, Kirby Metoxen, Marie Summers

Excused: Jennifer Webster, Daniel Guzman King

Others Present: Clorissa N. Santiago, Grace Elliot, Carolyn Salutz, Lawrence Barton, Justin Nishimoto, Joy Salzwedel, Rhiannon Metoxen, Rae Skenandore, Kaylynn Gresham, Michelle Myers, Peggy Van Gheem, Michelle Braaten, Kristin Jorgenson-Dann, Carl Artman

I. Call to Order and Approval of the Agenda

David P. Jordan called the September 7, 2022, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda as is; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

1. August 3, 2022 LOC Meeting Minutes

Motion by Marie Summers to approve the August 3, 2022, LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Children's Code Amendments

Motion by Kirby Metoxen to approve the Children's Code amendments adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2. Emergency Management Law Emergency Amendments

Motion by Kirby Metoxen to approve the Emergency Management law emergency amendments adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.



IV. New Submissions**1. Oneida Life Insurance Plan Plus (OLIPP) Law**

Motion by Marie Summers to add the Oneida Life Insurance Plan Plus law to the Active Files List for emergency adoption with Kirby Metoxen as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

2. Trust Scholarship Fund Policy Amendments

Motion by Marie Summers to add the Trust Scholarship Fund Policy amendments to the Active Files List with David P. Jordan as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

3. Drug and Alcohol Free Workplace Law Amendments

Motion by Marie Summers to add the Drug and Alcohol Free Workplace law amendments to the Active Files List with Kirby Metoxen as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions**VI. Administrative Items****1. Travel Report: State Bar of Wisconsin Indian Law Conference – Carolyn Salutz**

Motion by Marie Summers to accept Carolyn Salutz's travel report; seconded by Kirby Metoxen. Motion carried unanimously.

2. Travel Report: State Bar of Wisconsin Indian Law Conference – Grace Elliott

Motion by Marie Summers to accept Grace Elliott's travel report; seconded by Kirby Metoxen. Motion carried unanimously.

VII. Executive Session**VIII. Adjourn**

Motion by Marie Summers to adjourn at 9:27 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee
 September 21, 2022

Oneida Nation Assistance Fund Law

Submission Date: 6/1/22	Public Meeting: 9/2/22
LOC Sponsor: Jennifer Webster	Emergency Enacted: 6/8/22

Summary: *This item was added to the Active Files List on June 1, 2022. On May 25, 2022, the Legislative Reference Office submitted a request for the development of an Oneida Nation Assistance Fund law, the purpose of which is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. On April 14, 2021, the Oneida Business Committee adopted resolution BC-04-14-21-D, Oneida Nation Assistance Fund, which created an approved program – the Oneida Nation Assistance Fund – for the purpose of providing for the general welfare of the Nation and its members by offering limited amounts of financial assistance to Tribal members requiring general welfare need assistance, who could attest to such need. The Oneida Nation Assistance Fund, as adopted through resolution BC-04-14-21-D, was specific to a disbursement for an application period of June 1, 2021, and September 1, 2021. This Law was added to the Active Files List to codify the Oneida Nation Assistance Fund. On June 8, 2022, the Oneida Business Committee adopted the Oneida Nation Assistance Fund law on an emergency basis through resolution BC-06-08-22-A. The emergency adoption of this law will expire on December 8, 2022.*

5/12/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss how resolution BC-04-14-21-D, Oneida Nation Assistance Fund, would not work for this year’s general welfare assistance payment to members and whether we should bring forward an Oneida Nation Assistance Fund law through emergency adoption to address this year’s GWA disbursement.

5/18/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, Ralinda Ninham-Lamberies, Rae Skenandore, Keith Doxtator, Jameson Wilson. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the potential emergency adoption of the Oneida Nation Assistance Fund law – as well as review and discuss a proposed draft of this law.

6/1/22 LOC: 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.

6/8/22 OBC: Motion by Marie Summers to adopt resolution entitled 06-08-22-A Emergency Adoption of the Oneida Nation Assistance Fund Law, seconded by David P. Jordan. Motion carried.

- 7/1/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Grace Elliot, Ralinda Ninham-Lamberies, Keith Doxtator, Jameson Wilson, Barbara Webster. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the communication of the Oneida Nation Assistance Fund and the Elder Assistance Program, specifically how it relates to per capita, and to discuss the application submission period and disbursement timeframe resolutions.
- 7/6/22 LOC:** Motion by Marie Summers to approve the resolution, *Oneida Nation Assistance Fund Application Submission Period and Disbursement Timeframe for 2022*, with noted change and corresponding statement of effect and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.
- 7/13/22 OBC:** Motion by David P. Jordan to adopt resolution entitled 07-13-22-C *Oneida Nation Assistance Fund Application Submission Period and Disbursement Timeframe for 2022*, seconded by Jennifer Webster. Motion carried.
- 7/20/22 LOC:** Motion by Daniel Guzman King to approve the draft and legislative analysis for the Oneida Nation Assistance Fund law; seconded by Kirby Metoxen. Motion carried unanimously.
- 7/28/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Kirby Metoxen, Clorissa N. Santiago, Grace Elliott, Carolyn Salutz. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the public meeting notice and the GWA payment pictorial.
- 8/3/22 LOC:** Motion by Marie Summers to approve the public meeting packet, with updated public meeting notice, and forward the Oneida Nation Assistance Fund law to a public meeting to be held on September 2, 2022; seconded by Kirby Metoxen. Motion carried unanimously.
- 9/2/22:** *Public Meeting Held.* Present: David P. Jordan, Marie Summers, Clorissa N. Santiago, Justin Nishimoto, Jameson Wilson, Lawrence Barton, Carolyn Salutz, Kristal Hill, Grace Elliott, Rhiannon Metoxen, Kaylynn Gresham, Carl Artman, Michelle Myers. The public meeting for the Oneida Nation Assistance Fund law was held on Microsoft Teams. No individuals provided public comment during the public meeting.
- 9/12/22:** *Public Comment Period Closed.* One (1) submission of written comments was received during the public comment period.

Next Steps:

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



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CMS*
DATE: September 21, 2022
RE: Oneida Nation Assistance Fund Law: Public Comment Review

On September 2, 2022, a public meeting was held regarding the proposed Oneida Nation Assistance Fund law (“the Law”). The public comment period was then held open until September 12, 2022. The Legislative Operating Committee reviewed and considered the public comments received on July 14, 2022. This memorandum is submitted as a review of the written comments received during the public comment period.

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

Comment 1 – Government Administration Office:

Lisa Liggins (written): Please see the comments below regarding the Legislative Analysis associated with the Oneida Nation Assistance Fund law:

Lines 14, 36, 38-39 – “...Government Administration Office...” Correct to: “...Government Administrative Office...”

Thank you.
Lisa Liggins
Secretary
Oneida Business Committee

Response

The commenter requests that the legislative analysis be revised to provide the correct name of the Government Administrative Office. The legislative analysis will be updated to reflect this change.

LOC Consideration

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

1003.1. Purpose and Policy
1003.2. Adoption, Amendment, Repeal
1003.3. Definitions
1003.4. Establishment

1003.5. Guidelines and Requirements
1003.6. Funding

1003.1. Purpose and Policy

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

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

1003.2. Adoption, Amendment, Repeal

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

1003.2-2. 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.

1003.2-3. 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.

1003.2-4. 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.

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

1003.3. Definitions

1003.3-1. 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 approved program requirements.

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42 **1003.4. Establishment**

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

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

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

62 **1003.5. Guidelines and Requirements**

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

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

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

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

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

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

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

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87 declaration.

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

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

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

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

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

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

132 (i) costs related to any other emergency circumstance.

133 1003.5-6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and
134 permitted distribution of funds from the Oneida Nation Assistance Fund to the qualifying
135 recipients.

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

139
140 **1003.6. Funding**

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

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

147
148 *End.*

149
150 _____
151 Emergency Adopted – BC-06-08-22-A
152 Adopted – BC-__-__-__-__



**LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING**

Oneida Nation Assistance Fund Law

Microsoft Teams¹

September 2, 2022 12:15 p.m.

Present: David P. Jordan, Marie Summers, Clorissa N. Santiago, Justin Nishimoto, Jameson Wilson, Lawrence Barton, Carolyn Salutz, Kristal Hill, Grace Elliott, Rhiannon Metoxen, Kaylynn Gresham, Carl Artman, Michelle Myers.

David P. Jordan: The time is 12:15 p.m. and today's date is Friday, September 2, 2022. I will now call to order the public meeting for the proposed Oneida Nation Assistance Fund law.

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

All persons who wish to present oral testimony on Microsoft Teams, please raise your hand and you will be called on. If you leave an email address in the chat with your name, we can ensure you receive a copy of the public comment review memorandum.

Additionally, written comments may be submitted to the Nation's Secretary's Office or to the Legislative Reference Office in person, by U.S. mail, interoffice mail, e-mail or fax as provided on the public meeting notice. These comments must be received by close of business on Monday, September 12, 2022.

In attendance from the LOC today is Marie Cornelius, and myself, chairing.

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

Which we'll now, we will now begin today's public meeting for the proposed Oneida Nation Assistance Fund law. The purpose of this law is to establish the Oneida Nation Assistance Fund to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law.

¹ The Norbert Hill Center has a policy for administrative offices which prohibits in-person meetings if Brown or Outagamie County has HIGH COVID-19 Community Levels. In accordance with this policy, due to Brown County's HIGH COVID-19 Community Levels, the September 2, 2022, in-person public meeting was canceled and instead the public meeting for the proposed Oneida Nation Assistance Fund was held virtually on Microsoft Teams.

So raise your hand if you would like to speak or have comments.

For those of you that just joined you, you may raise your hand if you have comments for this law.

With there being no more speakers, the public comment period for this meeting, for the Oneida Nation Assistance Fund law is now closed at 12:32 p.m. Written comments may be submitted until close of business on Monday, September 12, 2022. Thanks for calling in everybody.

-End of Meeting-

From: [Lisa A. Liggins](#)
To: [LOC](#)
Subject: RE: PUBLIC MEETING: Oneida Nation Assistance Fund Law
Date: Thursday, September 1, 2022 5:22:49 PM

Please see the comments below regarding the Legislative Analysis associated with the Oneida Nation Assistance Fund law:

Lines 14, 36, 38-39 – “...Government Administration Office...” Correct to: “...Government Administrative Office...”

Thank you.

Lisa Liggins
 Secretary
 Oneida Business Committee

-----Original Appointment-----

From: LOC <LOC@oneidanation.org>

Sent: Wednesday, August 31, 2022 9:11 AM

To: BC_Conf_Room; David P. Jordan; Grace L. Elliott; Carolyn A. Salutz; Jennifer A. Webster; Kirby W. Metoxen; Ethel M. Summers; Daniel P. Guzman; Rhiannon R. Metoxen; Kristal E. Hill; Clorissa N. Santiago; Directors_Managers_Supervisors_GM_Programs; Directors_Mgrs_Supvsrs_Gaming; Directors_Mgrs_Supvsrs_Programs; Keith A. Doxtator; Carl J. Artman; Lawrence E. Barton; Ralinda R. Ninham-Lamberies; Rae M. Skenandore; Justin A. Nishimoto; Amy L. Spears; Jameson J. Wilson; Brooke M. Doxtator; Shannon C. Davis; Lisa A. Liggins; Cristina S. Danforth; Tehassi Tasi Hill; Brandon L. Yellowbird-Stevens; Secretary

Cc: Danielle L. White; Eric N. Bristol; Travis E. Cottrell; Mark W. Powless - General Mgr; Jamie L. Willis; Rachel A. Fitzpatrick; Eric H. Boulanger; Maryjo Nash; Gregory H. Matson; Lisa A. Moore; Karen V. Smith; Kurt G. Jordan; Shelly L. Stevens; Michelle M. Braaten; Debra L. Powless; Diana J. Hernandez; Reynold T. Danforth; Joanne Y. King; Derrick R. King; Raeann Skenandore; Lisa L. Slaby; Carla Witkowski; Joann E. Ninham; Deborah J. Thundercloud; Mitchel R. Metoxen; Lois J. Domencich; Laura E. Laitinen-Warren; Matthew B. Cornelius; Timothy J. Skenandore; Raymond A. Olson II; Rocky L. Stevens; Kyle J. Wisneski; Tanya E. Lopez Martin; Henrietta Cornelius; Shane C. Archiquette; Wendy M. Alvarez; Janet Hill <janet_hill14@aim.com>

Subject: PUBLIC MEETING: Oneida Nation Assistance Fund Law

When: Friday, September 2, 2022 12:15 PM-1:15 PM (UTC-06:00) Central Time (US & Canada).

Where: Microsoft Teams

In accordance with the Norbert Hill Center’s policy for administrative offices (see attached), the **Friday, September 2, 2022**, the public meeting regarding the proposed **ONEIDA NATION ASSISTANCE FUND LAW** will be held **virtually on Microsoft Teams** at **12:15 p.m.** The in-person public meeting in the Business Committee conference room at the Norbert Hill Center will no longer occur due to Brown County’s current HIGH COVID-19 Community Levels.

The Oneida Nation Assistance Fund law was adopted by the Oneida Business Committee on an emergency basis on June 8, 2022, and established the Oneida Nation Assistance Fund to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. It is the policy of the Nation to prioritize the general welfare needs of its members and recognize that the interests of the Nation are advanced when its members remain confident that their general welfare needs can be met. [10 O.C. 1003.1-2].

The public meeting will begin at **12:15 p.m.** on Microsoft Teams and conclude when all public comments have been received. Please arrive on the Microsoft Teams meeting by 12:15 p.m. if you plan to submit oral comments. Written comments on the proposed Oneida Nation Assistance Fund law can be submitted through **Monday, September 12, 2022**, to the Office of the Nation's Secretary or the Legislative Reference Office in person, or by U.S. mail, interoffice mail, e-mail or fax. Written comments can be submitted through email to the LOC at LOC@oneidanation.org.

The public meeting packet for the proposed Oneida Nation Assistance Fund law has been attached to this e-mail for your convenience, and will also be available on the Nation's website at <https://oneida-nsn.gov/government/register/public-meetings/>.

The Legislative Procedures Act requires that all managers or directors be electronically provided notice at least ten (10) business days prior to a public meeting. The Legislative Procedures Act also requires all appropriate managers or directors direct comments to be provided by employees who have special knowledge or expertise on this legislative issue during the public meeting and/or public comment period. [1 O.C. 109.8-2(b) and 109.8-4(a)]. Please share this appointment with any employees or individuals who may have expertise in these areas.

If you have any questions regarding the public meeting for the proposed Oneida Nation Assistance Fund law please contact Attorney Clorissa N. Santiago at csantia1@oneidanation.org or (920) 869-4417.

Microsoft Teams meeting

Join on your computer or mobile app
[Click here to join the meeting](#)

Meeting ID: 210 347 498 036
Passcode: B6GFmm
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Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: September 15, 2022
- 2) Contact Person(s): Clorissa N. Santiago
Dept: Legislative Reference Office
Phone Number: (920) 869-4417 Email: csantia1@oneidanation.org
- 3) Agenda Title: Back Pay Law Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
During the executive session portion of the September 14, 2022, Oneida Business Committee meeting, the Oneida Business Committee directed the Legislative Operating Committee to consider amendments to the Back Pay law.

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

- 1) Back Pay Law 3) _____
- 2) _____ 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:
Request for amendments came from the Oneida Business Committee
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
N/A

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

Signature of Requester

Please send this form and all supporting materials to:

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

Title 2. Employment – Chapter 206
BACK PAY
Tashakotikályahke? kayanl/hsia?
back pay law

206.1. Purpose and Policy

206.2. Adoption, Amendment, Appeal

206.3. Definitions

206.4. Back Pay Calculation

206.5. Back Pay Process

206.1. Purpose and Policy

206.1-1. The purpose of this law is to set forth standards used in the calculation of back pay for all employees of the Nation in accordance with the Nation’s law.

206.1-2. It is the policy of the Nation to have consistent and standard procedures for the management of employee back pay.

206.2. Adoption, Amendment, Appeal

206.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP and amended by resolutions BC-06-23-10-F, BC-08-13-14-C and BC-10-26-16-A.

206.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

206.2-3. 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.

206.2-4. 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.

206.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

206.3. Definitions

206.3-1. 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) “Advocate” means a non-attorney person as provided by law and other person who is admitted to practice law and is presented to the court as the representative or advisor to a party.

(b) “Back pay” means money damages owed to the employee for a salary or wage to compensate the employee as determined by the formulas set forth within this law.

(c) “Consequential damages” means damages that are not a direct and immediately result of an act, but a consequence of the initial act, including but not limited to penalties on early withdrawal of retirement account.

(d) “Consultant” means a professional who is contracted externally whose expertise is provided on a temporary basis for a fee.

(e) “Earnings” includes vacation/personal time, shift differential, holiday pay, merit increases, bonuses and incentives, employment benefits and income received during the back pay period.

(f) “Employee” means any individual who is employed by the Nation and is subject to the direction and control of the Nation with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules

applicable to determining the employer-employee relationship. "Employee" includes, but is not limited to; an individual employed by any program or enterprise of the Nation, but does not include elected or appointed officials or individuals employed by a Tribally Chartered Corporation. For purposes of this law, individuals employed under an employment contract as a limited term employee are employees of the Nation, not consultants.

(g) "Involuntarily separated" means an employee removed from employment through whatever means, other than a layoff, by the employer. This shall include, but is not limited to, investigative leave, suspension or termination.

(h) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(i) "Nation" means the Oneida Nation.

(j) "Punitive damages" means monetary compensation awarded to an injured party that goes beyond that which is necessary to compensate the individual for losses and that is intended to punish the other party.

206.4. Back Pay Calculation

206.4-1. *Back Pay Limitations.* Back pay shall only include the items identified in this Section as they relate to the employee. Back pay shall include and be subject to the following:

(a) *Vacation/Personal Time Accrual.* Employees shall receive prorated credit for vacation/ personal time which would have accrued during the back pay period.

(1) Reinstated employees shall be credited for vacation/ personal time. If the crediting of vacation/personal time would result in the employee exceeding the accrual cap pursuant to the Nation's laws, rules and policies, then any amount over that cap shall be provided as a cash payout. Non-reinstated employees shall be paid out vacation/personal time in lieu of crediting personal/vacation time.

(b) *Shift Differential.* Shift differential shall be included in the back pay amount to the extent it is a part of the employee's regularly scheduled hours.

(c) *Tips.* If the employee received pooled tips at the time of involuntary separation, tips shall be included in the total back pay amount at the same tip rate that other employees in the same position and on the same shift received on the same dates.

(1) If the employee received individual tips at the time of involuntary separation, the employee shall be ineligible for tips during the back pay period.

(d) *Holiday Pay.* Holiday pay shall be included in the back pay amount to the extent the employee would have received such pay if the employee had not been involuntarily separated.

(e) *Merit Increases.* The hourly rate used to calculate back pay shall be increased according to the merit increase system/standard used by the employee's supervisor during the back pay period and will include any increases from Oneida Business Committee or General Tribal Council directives.

(1) The effective date of the employee's merit increase shall be the same as the effective date for other employees in the same department. Retroactive increases shall be calculated back to the retroactive date used for other employees in the same department.

(2) The most recent performance review issued to the employee prior to being involuntarily separated shall be used to determine the level of merit increase.

However, if the employee appealed the performance review to the Human Resource Department Manager prior to involuntary separation, a method under the Nation's laws, rules and policies shall be used to determine the merit increase.

(f) *Bonuses and Incentives.* All bonus and incentive payments for which the employee would have been eligible during the back pay period shall be included in the total back pay amount, except for non-monetary gifts distributed by the Nation to all employees (e.g. winter gift) or other non-monetary benefits, such as clothing allowance.

(g) *Employment Benefits.* Employee benefits shall be subject to the provisions in this section.

(1) *Insurance Benefits.* Coverage by the Nation for health insurance, dental insurance, vision insurance, life insurance, long-term disability and short-term disability coverage shall continue during an involuntary separation, except in the event of a termination where the coverage will discontinue. The Nation shall deduct the employee's share of premiums paid from any back pay award.

(A) If the employee's circumstances have changed during the back pay period and such circumstances affect the employee's insurance needs, the employee shall notify the Nation of such changes at the time of reinstatement.

(B) An employee who is reinstated shall sign a waiver from Purchased Referred Care authorizing a review of the back pay period to determine if Purchased Referred Care services were rendered. If Purchased Referred Care determines services were rendered during the back pay period, an employee shall timely submit insurance information to Purchased Referred Care in order for Purchased Referred Care to retroactively bill the insurance provider to recoup funds for those services rendered during the back pay period.

(C) If the employee refuses to sign an authorization waiver from Purchased Referred Care, the employee will not be eligible to receive any back pay award.

(2) *Flexible Benefit Plan Contributions.* If a terminated employee was contributing to the Nation's flexible benefit plan at the time of termination, the status of the employee's flex benefit plan shall be subject to the provisions of the Internal Revenue Code.

(3) *Retirement Benefit Contributions.* In the event the employee was participating in the Nation's retirement plan at the time of involuntary separation, the employee shall be responsible for contacting the retirement plan administrator and reactivating contributions.

(A) The employee may choose whether to have the employee's contribution to the retirement plan that would have been made during the back pay period deducted from the total back pay amount and deposited into the employee's retirement account.

(B) If the employee was eligible for employer matching contributions at the time of involuntary separation and the employee chooses to make a contribution through back pay, the Nation shall contribute the employer match into the employee's retirement account.

(C) If the employee was not participating in the Nation's retirement plan or chooses not to make contributions through the back pay process, then the

Nation shall not make employer match contributions into the employee's retirement account.

(h) *Income Received During the Back Pay Period.*

(1) *Unemployment Benefits.* Depending upon the unemployment compensation financing option elected by the Nation, either:

(A) Any unemployment compensation paid by the Nation to the State of Wisconsin for an involuntarily separated employee shall be deducted from the employee's back pay award; or

(B) The employee is directly responsible for the reimbursement to the State of Wisconsin. The Nation shall send a copy of the completed and signed settlement agreement to the appropriate state department. The state then may determine the amount, if any, of unemployment compensation benefits received during the back pay period should be repaid.

(2) *Income Received Through Employment.* Except as provided in section 4-1(h)(2)(B), income earned by an employee during the back pay period shall be deducted from the total back pay amount.

(A) The employee shall provide information to verify the amount of or lack of earned income and sign an affidavit attesting to the amount of or lack of earned income.

(B) If the employee worked an additional job prior to being involuntarily separated and continued working in the same capacity, the income earned from that employment shall not be deducted from the total back pay amount to the extent that the income is consistent with pre-involuntary separation earnings. Where the employee worked the additional job, the employee shall provide information from the employer to verify the income earned before and during the back pay period.

206.4-2. *Payments Not Allowed.* The Nation shall not include the following in any back pay amount:

- (a) Punitive damages;
- (b) Consequential damages;
- (c) Attorney's or advocate's fees;
- (d) Time when the employee would not have been eligible to work;
- (e) Monies normally paid for additional duties while working where an alternate employee assumed that function while the employee was involuntarily separated, unless the additional duties are a part of such involuntarily separated employee's regular schedule.

206.4-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is involuntarily separated and ends on the day the employee is reinstated.

(a) If the employee is reinstated but refuses to return to work, the back pay period ends on the date reinstatement would have taken effect, but was refused by the employee.

(b) Back pay shall be calculated by taking the employee's average hours worked during the fifty-two (52) week period immediately preceding the date of the involuntary separation and divide that amount by the number of weeks worked.

(1) If the employment prior to the involuntary separation was less than fifty-two (52) weeks, the back pay shall be calculated by taking the employee's average hours worked and divide that amount by the number of weeks worked.

(2) If the involuntary separation period involves a fractional week, the indemnity

shall be paid for each day of a fractional week at the rate of the average number of hours worked per day immediately prior to the involuntary separation. For the purposes of this section, immediately prior means the twelve (12) full work weeks immediately preceding the involuntary separation. Provided that, under extenuating circumstances related to business needs of the Nation wherein the Oneida Law Office determines that considering hours worked per day immediately prior would be unfair, an alternative reasonable timeframe may be used.

206.5. Back Pay Process

206.5-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of implementing this law.

206.5-2. Internal departments shall cooperate as necessary with the Oneida Law Office in providing information needed to assemble and prepare the back pay agreement.

206.5-3. A reasonable effort shall be made to complete the back pay agreement within thirty (30) calendar days, starting the day after the party to the grievance action provides to the Oneida Law Office a judgment ordering back pay or the results of an investigation or test showing the employee is cleared of any wrongdoing.

206.5-4. An employee not receiving back pay in accordance with the back pay agreement may seek enforcement by the Judiciary.

End.

Adopted - BC-5-24-06-PP

Amended - BC-06-23-10-F

Amended - BC-08-13-14-C

Amended - BC-10-26-16-A

September 2022

September 2022

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October 2022

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Aug 28	29	30	31	Sep 1	2 12:15pm PUBLIC MEETING: Oneida Nation Assistance Fund Law (Microsoft Teams) - LOC	3
4	5 8:00am Labor Day	6	7 9:00am LOC Meeting (BC_Conf_Room) - LOC 11:00am Communication of Public Meetings and	8	9	10
11	12 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	13	14	15 11:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	16	17
18	19 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago 11:00am Layoff Policy Amendments 2:30pm Law Enforcement	20	21 9:00am LOC Meeting (BC_Conf_Room) - LOC	22	23	24
25	26 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	27	28	29 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	Oct 1