



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

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. October 19, 2022 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Oneida Nation Assistance Fund Law (pg. 4)
2. Back Pay Law Amendments (pg. 24)
3. Emergency Management Law Amendments (pg. 43)

IV. New Submissions

V. Additions

VI. Administrative Updates

1. E-Poll Results: Emergency Amendments to the Budget and Finances Law (pg. 69)
2. E-Poll Results: Approval of the LOC and LRO FY23 Annual Reports (pg. 106)
3. Legislative Operating Committee Fiscal Year 2022 Fourth Quarter Report (pg. 114)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
October 19, 2022
9:00 a.m.

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

Others Present: Clorissa N. Leeman, Carolyn Salutz, Lawrence Barton, Bonnie Pigman, Grace Elliot (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Kristal Hill (Microsoft Teams), Michelle Myers (Microsoft Teams), Kaylynn Gresham (Microsoft Teams), Rae Skenandore (Microsoft Teams), Eric Boulanger (Microsoft Teams),

I. Call to Order and Approval of the Agenda

David P. Jordan called the October 19, 2022, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Cornelius to adopt the agenda with one addition, the Budget and Finances Law Emergency Amendments; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be Approved

1. October 5, 2022 LOC Meeting Minutes

Motion by Marie Cornelius to approve the October 5, 2022, LOC meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Back Pay Law Amendments

Motion by Jennifer Webster to approve the updated draft and legislative analysis; seconded by Marie Cornelius. Motion carried unanimously.

2. Emergency Management Law Amendments

Motion by Jennifer Webster to approve the legislative analysis of the Emergency Management law; seconded by Marie Cornelius. Motion carried unanimously.

IV. New Submissions



V. Additions

1. Budget and Finances Law Emergency Amendments

Motion by Jennifer Webster to add the Budget and Finances law emergency amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:11 a.m.; seconded by Marie Cornelius. Motion carried unanimously.



Legislative Operating Committee
November 2, 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.
- 9/21/22 LOC:** Motion by Jennifer Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Marie Cornelius. Motion carried unanimously.
- 9/21/22:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Kirby Metoxen, Clorissa N. Santiago, Grace Elliott, Carolyn Salutz, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the public comments received.
- 10/5/22 LOC:** Motion by Jennifer Webster to approve the updated public comment review memorandum, draft, updated legislative analysis, and fiscal impact statement request memorandum, and forward to the Trust Enrollment Department Director directing that a fiscal impact statement be submitted to the Legislative Operating Committee by October 19, 2022; seconded by Daniel Guzman King. Motion carried unanimously.

10/5/22: *Fiscal Impact Statement Received.* The Trust Enrollment Department Director provided the LOC with the requested Fiscal Impact Statement.

Next Steps:

- Approve the Oneida Nation Assistance Fund law adoption packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: November 23, 2022
RE: Adoption of the Oneida Nation Assistance Fund Law

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

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

Overview

The Oneida Business Committee adopted the Oneida Nation Assistance Fund law on an emergency basis on June 8, 2022, through the adoption of resolution BC-06-08-22-A. The emergency adoption of the Oneida Nation Assistance Fund law will expire on December 8, 2022. The Oneida Nation Assistance Fund law is now ready to be considered for permanent adoption.

The purpose of the Oneida Nation Assistance Fund law is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. The Oneida Nation Assistance Fund law will:

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

- Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. *[10 O.C. 1003.5-6, 1003.5-7]*.

The Legislative Operating Committee developed the proposed amendments to the Oneida Nation Assistance Fund law through collaboration with representatives from the Oneida Law Office, Government Administrative Office, Finance Administration, Trust Enrollments Department, and Intergovernmental Affairs and Communications. The Legislative Operating Committee held five (5) work meetings on the development of the Oneida Nation Assistance Fund law.

The development of the Oneida Nation Assistance Fund law complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. *[1 O.C. 109.6, 109.7, 109.8]*.

A public meeting on the proposed Oneida Nation Assistance Fund law was held on September 2, 2022. No oral comments were provided during the public meeting. The public comment period was then held open until September 12, 2022. The Legislative Operating Committee received one (1) submission of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on September 21, 2022. Any changes made based on those comments have been incorporated into this draft.

Requested Action

Adopt the Resolution: Adoption of the Oneida Nation Assistance Fund Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Adoption of the Oneida Nation Assistance Fund Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
2 recognized by the laws of the United States of America; and
3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
8
- 9 **WHEREAS,** the Oneida Nation Assistance Fund law (“the Law”) was adopted by the Oneida Business
10 Committee on an emergency basis through resolution BC-06-08-22-A; and
11
- 12 **WHEREAS,** the purpose of the Law is to establish the Oneida Nation Assistance Fund as an approved
13 program of the Nation to govern how the Nation provides financial assistance to its
14 members, pursuant to the Oneida General Welfare law; and
15
- 16 **WHEREAS,** the Law provides how the Oneida Nation Assistance Fund qualifies for general welfare
17 exclusion; and
18
- 19 **WHEREAS,** the Law provides the eligibility requirements for accessing assistance from the Oneida
20 Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen
21 (18) or older; and submits a completed application during the designated submission
22 timeframe; and
23
- 24 **WHEREAS,** the Law provides the minimum requirements for the information that must be included on
25 the application for assistance from the Oneida Nation Assistance Fund; and
26
- 27 **WHEREAS,** the Law provides how and when funds from the Oneida Nation Assistance Fund are
28 disbursed; and
29
- 30 **WHEREAS,** the Law provides for the types of expenses that shall be considered qualifying expenditures
31 for use of assistance from Oneida Nation Assistance Fund by the recipient; and
32
- 33 **WHEREAS,** the Law provides information on the funding source and who determines that amount of
34 available funding to an eligible participant; and
35
- 36 **WHEREAS,** the Law provides that the Trust Enrollment Department is the department that has the
37 responsibilities to administer the Oneida Nation Assistance Fund; and
38
- 39 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
40 statement were developed for this Law; and
41

42 **WHEREAS,** a public meeting on the Law was held on September 2, 2022, in accordance with the
43 Legislative Procedures Act, and the public comment period was held open until September
44 12, 2022; and
45

46 **WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public
47 comments received on September 21, 2022; and
48

49 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Nation Assistance Fund law is hereby adopted
50 and shall become effective on December 7, 2022.



Statement of Effect

Adoption of the Oneida Nation Assistance Fund Law

Summary

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

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

Date: October 21, 2022

Analysis by the Legislative Reference Office

This resolution adopts the Oneida Nation Assistance Fund law (“the Law”) on a permanent basis. The Oneida Business Committee adopted the Law on an emergency basis on June 8, 2022, through the adoption of resolution BC-06-08-22-A. The emergency adoption of the Oneida Nation Assistance Fund law will expire on December 8, 2022. The purpose of the Law is to establish the Oneida Nation Assistance Fund as an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. The Law will:

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

Adoption of any legislation is required to comply with the Legislative Procedures Act (“the LPA”), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a standardized process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Oneida Nation Assistance Fund law complied with all processes and procedures required

by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

A public meeting on the proposed Oneida Nation Assistance Fund law was held on September 2, 2022. No oral comments were provided during the public meeting. The public comment period was then held open until September 12, 2022. The Legislative Operating Committee received one (1) submission of written comments during the public comment period. All public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on September 21, 2022. Any changes made based on those comments have been incorporated into this draft.

The Oneida Nation Assistance Fund law will become effective ten (10) business days after the adoption of this resolution in accordance with the LPA. [1 O.C. 109.9-3].

Conclusion

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



ONEIDA NATION ASSISTANCE FUND LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	<ul style="list-style-type: none"> ▪ Establish the Oneida Nation Assistance Fund as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1003.4-1]. ▪ Provide how this program qualifies for general welfare exclusion. [10 O.C. 1003.4-2]. ▪ Provide the eligibility requirements for accessing assistance from the Oneida Nation Assistance Fund – which is that a person is a member of the Nation; age eighteen (18) or older; and submits a completed application during the designated submission timeframe. [10 O.C. 1003.5-1]. ▪ Provide the minimum requirements for the information that must be included on the application. [10 O.C. 1003.5-3]. ▪ Provide how and when funds from the Oneida Nation Assistance Fund are disbursed. [10 O.C. 1003.5-2, 1003.5-4]. ▪ Provide for the types of expenses that shall be considered qualifying expenditures for use of assistance from Oneida Nation Assistance Fund by the recipient. [10 O.C. 1003.5-5]. ▪ Provide information on the funding source and who determines that amount of available funding to an eligible participant. [10 O.C. 1003.6-1, 1003.6-2]. ▪ Provide that the Trust Enrollment Department is the department that has the responsibilities to administer the Oneida Nation Assistance Fund. [10 O.C. 1003.5-6, 1003.5-7].
Purpose	To establish the Oneida Nation Assistance Fund to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1].
Affected Entities	Oneida Business Committee, Trust Enrollment Department
Public Meeting	A public meeting was held on September 2, 2022. The public comment period was then held open until September 12, 2022.
Fiscal Impact	A fiscal impact statement was received from the Trust Enrollment Department Director on October 5, 2022.
Expiration of Emergency Legislation	The Oneida Nation Assistance Fund law was adopted on an emergency basis on June 8, 2022, through resolution BC-06-08-22-A. The emergency adoption of the Oneida Nation Assistance Fund law will expire on December 8, 2022.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Oneida Nation Assistance Fund law (“the Law”) was adopted by the Nation on an
- 3 emergency basis on June 8, 2022, through resolution BC-06-08-22-A for the purpose of establishing
- 4 the Oneida Nation Assistance Fund to govern how the Nation provides financial assistance to its

5 members, pursuant to the Oneida General Welfare law. [10 O.C. 1003.1-1]. The emergency adoption
6 of the Law will expire on December 8, 2022.

- 7 **B.** The adoption of the Law on a permanent basis is now being sought by the Legislative Operating
8 Committee.
9

10 **SECTION 3. CONSULTATION AND OUTREACH**

- 11 **A.** Representatives from the following departments or entities participated in the development of this Law
12 and legislative analysis:

- 13 ▪ Oneida Law Office;
- 14 ▪ Government Administrative Office;
- 15 ▪ Finance Administration;
- 16 ▪ Trust Enrollments Department; and
- 17 ▪ Intergovernmental Affairs and Communications.

18 **SECTION 4. PROCESS**

- 19 **A.** The development of this Law has followed the process set forth in the Legislative Procedures Act
20 (LPA).
21

- 22 ▪ On June 1, 2022, the Legislative Operating Committee added the Law to its Active Files List.
- 23 ▪ On June 1, 2022, the Legislative Operating Committee approved the Oneida Nation Assistance
24 Fund law emergency adoption packet and forward to the Oneida Business Committee for
25 consideration.
- 26 ▪ On June 8, 2022, the Oneida Business Committee adopted the Law on an emergency basis
27 through the adoption of resolution BC-06-08-22-A entitled, *Emergency Adoption of the Oneida*
28 *Nation Assistance Fund Law*. The emergency adoption of the Law will expire on December 8,
29 2022.
- 30 ▪ On July 20, 2022, the Legislative Operating Committee approved the draft and legislative
31 analysis for the Oneida Nation Assistance Fund law.
- 32 ▪ On August 3, 2022, the Legislative Operating Committee approved the public meeting packet,
33 with updated public meeting notice, and forwarded the Oneida Nation Assistance Fund law to
34 a public meeting to be held on September 2, 2022.
- 35 ▪ On September 2, 2022, the public meeting was held on Microsoft Teams. No one provided
36 comments during this public meeting.
- 37 ▪ The public comment period was held open until September 12, 2022. One (1) submission of
38 written comments was received during the public comment period.
- 39 ▪ On September 21, 2022, the Legislative Operating Committee accepted the public comments
40 and the public comment review memorandum and deferred these items to a work meeting for
41 further consideration.
- 42 ▪ On October 5, 2022 the Legislative Operating Committee approved the updated public
43 comment review memorandum, draft, updated legislative analysis, and fiscal impact statement
44 request memorandum, and forwarded these materials to the Trust Enrollment Department
45 Director directing that a fiscal impact statement be submitted to the Legislative Operating
46 Committee by October 19, 2022.

- 47 ▪ The Legislative Operating Committee received the fiscal impact statement from the Trust
48 Enrollment Department Director on October 5, 2022.
- 49 **B.** At the time this legislative analysis was developed the following work meetings had been held
50 regarding the development of this Law:
- 51 ▪ May 12, 2022: LOC work meeting.
- 52 ▪ May 18, 2022: LOC work meeting with the Oneida Law Office, Finance Administration,
53 Budget Analyst, Trust Enrollment Department, and Government Administrative Office.
- 54 ▪ July 1, 2022: LOC work meeting with the Finance Administration, Trust Enrollment
55 Department, Intergovernmental Affairs and Communications, and Government Administrative
56 Office.
- 57 ▪ July 28, 2022: LOC work meeting.
- 58 ▪ September 21, 2022: LOC work meeting.
- 59

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

- 61 **A. Purpose and Policy.** The purpose of this law is to establish the Oneida Nation Assistance Fund to
62 govern how the Nation provides financial assistance to members, pursuant to the Oneida General
63 Welfare law. [10 O.C. 1003.1-1]. It is the policy of the Nation to prioritize the general welfare needs
64 of its members. [10 O.C. 1003.1-2]. The interests of the Nation are advanced when its members remain
65 confident that their general welfare needs can be met. [10 O.C. 1003.1-2].
- 66 ▪ **Effect.** The overall purpose of this Law is to codify the Nation’s sovereign right to provide
67 assistance to Tribal members on a non-taxable basis through an approved program.
- 68 **B. Establishment.** This Law establishes the Oneida Nation Assistance Fund as an approved program of
69 the Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1]. The Oneida
70 Nation Assistance Fund meets the requirements of the General Test as defined in the Oneida General
71 Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements
72 of the Tribal General Welfare Exclusion Act of 2014 26 U.S.C. §139E(b). [10 O.C. 1003.4-1].
- 73 **C. Guidelines and Requirements.** The Law provides guidelines and requirements for the Oneida Nation
74 Assistance Fund. The Oneida Nation Assistance Fund shall be open to any individuals who meet the
75 following criteria: is a member of the Nation; is age eighteen (18) or older; and submits a completed
76 application during the designated submission timeframe [10 O.C. 1003.5-1]. The Oneida Business
77 Committee shall set forth, through the adoption of a resolution, an application submission period and
78 disbursement timeframe for a distribution of assistance from the Oneida Nation Assistance Fund. [10
79 O.C. 1003.5-2]. Any individual seeking assistance from the Oneida Nation Assistance Fund shall
80 submit an application. [10 O.C. 1003.5-3]. The Trust Enrollment Department shall make available an
81 Oneida Nation Assistance Fund application form and instructions. [10 O.C. 1003.5-3(a)]. The Law
82 provides the minimum information that is required to be provided on the application. [10 O.C. 1003.5-
83 3(a)(1)(A)-(I)]. Assistance provided through the Oneida Nation Assistance Fund shall be disbursed in
84 accordance with the timeframe set through resolution by the Oneida Business Committee. [10 O.C.
85 1003.5-4]. Funds from the Oneida Nation Assistance Fund may be disbursed through direct deposit, or
86 check, depending on the selection made on the application by the recipient. [10 O.C. 1003.5-4].
- 87 **D. Qualifying Expenditures.** The Law provides that the following types of expenses shall be considered
88 qualifying expenditures for use of assistance from the Oneida Nation Assistance Fund by the recipient:
- 89 ▪ costs relating to housing needs of principal residences such as:
- 90 ▪ mortgage payments, rent payments, and down payments;

- 91 ▪ enhancements for habitability of housing;
- 92 ▪ basic housing repairs or rehabilitation;
- 93 ▪ improvements to adapt housing for special health needs;
- 94 ▪ costs for paying utility bills and charges, including, but not limited to, the following:
- 95 ▪ water;
- 96 ▪ electricity;
- 97 ▪ gas;
- 98 ▪ basic communication services such as:
- 99 ▪ phone
- 100 ▪ internet; and
- 101 ▪ cable;
- 102 ▪ costs associated with education, including, but not limited to the following:
- 103 ▪ transportation to and from school;
- 104 ▪ tutors;
- 105 ▪ supplies for use in school activities and extra-curricular activities;
- 106 ▪ providing tuition or room and board payments;
- 107 ▪ providing for childcare for parents seeking employment or pursuing education;
- 108 ▪ job counseling and interviewing expenses;
- 109 ▪ costs associated with food security;
- 110 ▪ costs associated with home care assistance;
- 111 ▪ costs associated with vehicle payments, maintenance, repair, and insurance;
- 112 ▪ costs associated with medical care and transportation, room, and board costs for seeking
- 113 medical care;
- 114 ▪ funeral and burial expenses and expenses for attending wakes, funerals, burials,
- 115 bereavements, and subsequent honoring events; and
- 116 ▪ costs related to any other emergency circumstance [10 O.C. 1003.5-5].

117 **E. Oversight and Records Maintenance.** The Trust Enrollment Department shall oversee the collection,
118 review, and permitted distribution of funds from the Oneida Nation Assistance Fund to the qualifying
119 recipients and shall be responsible for maintenance of records for the Oneida Nation Assistance Fund.
120 [10 O.C. 1003.5-6, 1003.5-7]. The recipient shall retain receipts for the expenditure of the funds
121 associated with the Oneida Nation Assistance Program. [10 O.C. 1003.5-7].

122 **F. Funding.** The Oneida Nation Assistance Fund shall be funded through the Nation’s annual budget, and
123 by any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1003.6-
124 1]. The Oneida Business Committee shall determine the amount of assistance available to an eligible
125 recipient from the Oneida Nation Assistance Fund per any permitted distribution. [10 O.C. 1003.6-2].
126

127 **SECTION 6. EXISTING LEGISLATION**

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

- 129 ▪ *Oneida General Welfare Law.* The Oneida General Welfare Law governs how the Nation
130 provides assistance to eligible members on a non-taxable basis, pursuant to the principles of
131 the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits
132 to Tribal members. [10 O.C. 1001.1-1].
- 133 ▪ The Oneida Nation Assistance Fund is hereby established as an approved program of
134 the Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1].

135 The Oneida Nation Assistance Fund meets the requirements of the General Test as
136 defined in the Oneida General Welfare Law. [10 O.C. 1003.4-2].
137

138 **SECTION 7. OTHER CONSIDERATIONS**

139 **A. *Deadline for Permanent Adoption of Legislation.*** The emergency adoption of this Law will expire six
140 (6) months after adoption on December 8, 2022. The emergency legislation may be renewed for an
141 additional six (6) month period.

142 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
143 adoption of this Law on a permanent basis within the next six (6) to twelve (12) months.

144 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
145 legislation except emergency legislation. [1 O.C. 109.6-1]. Fiscal Impact statements may be prepared
146 by any agency who may receive funding if the legislation is enacted, any agency who may administer
147 a program if the legislation is enacted, any agency who may have financial information concerning the
148 subject matter of the legislation, or by the Finance Office, upon request of the Legislative Operating
149 Committee. [1 O.C. 109.6-1(a)-(b)]. Oneida Business Committee resolution BC-10-28-20-A entitled,
150 *Further Interpretation of 'Fiscal Impact Statement' in the Legislative Procedures Act*, provides further
151 clarification on who the Legislative Operating Committee may direct complete a fiscal impact
152 statement at various stages of the legislative process, as well as timeframes for completing the fiscal
153 impact statement.

154 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
155 statement be completed.

156

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.

Draft 1 – PM Draft
2022 08 25

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

Draft 1 – PM Draft
2022 08 25

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

Draft 1 – PM Draft
2022 08 25

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

MEMORANDUM

To: Legislative Operating Committee
From: Keith Doxtator
Date: October 5th, 2022
Subject: Oneida Nation Assistance Fund Law – Fiscal Impact Statement

Program Expenses

Most of the expenses from this law are outside the control of the Trust Enrollments Department. Rather this law gives both funding source and available funding control to the Business Committee.

In FY22, the funds were budgeted and \$1,300 was paid to all members and \$2,000 was paid to members age 62+. During the last FY23 budget meeting, a higher \$1,500 payment to all members was proposed. The fiscal impact is simple: # of members eligible * payment amount:

<u>Year</u>	<u>Expected Members</u>	<u>Expected Elders</u>
2023	17,300	3,150
2033	16,900	4,110
2043	15,800	4,330

If we simply maintain the FY23's budgeted amounts of \$1,500 /member plus \$2,000 /elder:

<u>Year</u>	<u>All Member Payment</u>	<u>Elder Payment</u>	<u>Total Annual Payment</u>
2023	\$25,950,000	\$6,300,000	\$32,250,000
2033	\$25,350,000	\$8,220,000	\$33,570,000
2043	\$23,700,000	\$8,660,000	\$32,360,000

Any decision impacting membership (such as the next version of Sustain Oneida) or payment amount may have a significant fiscal impact.

Startup Costs

Negligible

Personnel

In my original FY23 budget, I included funds to hire a second Payment Administrator. Historically, our office paid per capita payment with two administrators. While we scaled back to one during Covid, continuing to operate the five GWA payments we've been tasked is not sustainable. I'd expect the grade to be an 8. At median, the salary is \$49,296 /year, and our department's fringe rate is 48.2%.

The total additional personnel expense is \$73,000 /yr.

Office Costs

Negligible

For potential consideration, I'd expect the database technology we use and the ability to communicate with Accounting's technology to require an upgrade in the coming years. I understand DTS has included some allocation for this in their FY23 budget, and I'm not yet sure if that would solve the concern or simply be the first step. Our database remains the most streamlined way to process member information, and future upgrades may target further efficiencies.

Documentation Costs

Negligible

Estimate of Time Necessary to Comply with Law

Already in compliance.



Legislative Operating Committee
November 2, 2022

Back Pay Law Amendments

Submission Date: 9/21/22	Public Meeting: N/A
LOC Sponsor: Marie Cornelius	Emergency Enacted: N/A

Summary: *On August 14, 2022, during executive session, the Oneida Business Committee requested that the Legislative Operating Committee add the Back Pay law to the Active Files List, and to release the confidential memo to the Legislative Reference Office as a confidential document.*

9/14/22 OBC: Motion by Jennifer Webster to request the Legislative Operating Committee to add the Backpay Policy to the active files agenda and to release the confidential memo to the Legislative Reference Office as a confidential document, seconded by David P. Jordan. Motion carried.

9/21/22 LOC: Motion by Jennifer Webster to add the Back Pay Law Amendments to the Active Files List with Marie Cornelius as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

9/29/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Back Pay law.

10/5/22 LOC: Motion by Jennifer Webster to approve the draft of the proposed amendments to the Back Pay law and direct that a legislative analysis be completed; seconded by Daniel Guzman King. Motion carried unanimously.

10/13/22: *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Carolyn Salutz, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss an additional proposed amendments to the law.

10/19/22 LOC: Motion by Jennifer Webster to approve the updated draft and legislative analysis; seconded by Marie Cornelius. Motion carried unanimously.

Next Steps:

- Approve the public meeting packet, and forward the Back Pay law amendments to a public meeting to be held on December 13, 2022.

ONEIDA NATION PUBLIC MEETING NOTICE**TUESDAY, DECEMBER 13 2022, 12:15 pm**

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

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



Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

920-869-4417

BACK PAY LAW AMENDMENTS

The purpose of the Back Pay law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the Nation in accordance with the Nation's law .

The Back Pay law amendments will:

- ◆ Include a new section in the law which provides for the reinstatement of employee who had a termination overturned and addresses such issues as:
 - ◆ reinstatement of an employee to the position the employee was terminated from;
 - ◆ requirement to hold a position pending litigation; and
 - ◆ amending the position description or eliminating the position pending an employee appeal.
- ◆ Clarify that back pay calculations shall be made using the employee's last wage in the position which they were terminated from.
- ◆ Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay.

Individuals may attend the public meeting for the proposed Back Pay law amendments in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidanation.org.

If the Norbert Hill Center's Administrative Offices guidelines prohibits a public meeting from being held in person on December 13, 2022, based on the COVID-19 Community levels in Brown and Outagamie Counties, then the public meeting will be held solely on Microsoft Teams.

PUBLIC COMMENT PERIOD CLOSSES TUESDAY, DECEMBER 20, 2022

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



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



BACK PAY LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Include a new section in the law which provides for the reinstatement of employee who had a termination overturned and addresses such issues as: <ul style="list-style-type: none"> ▪ reinstatement of an employee to the position the employee was terminated from [2 O.C. 206.4-1]; ▪ requirement to hold a position pending litigation [2 O.C. 206.4-2]; ▪ amending the position description or eliminating the position pending an employee appeal [2 O.C. 206.4-3]; ▪ Clarify that back pay calculations shall be made using the employee’s last wage in the position which they were terminated from [2 O.C. 206.5-1]; ▪ Clarify the circumstances in which an employee is not eligible to work, and therefore is not eligible for back pay [2 O.C. 206.5-2(d)].
Purpose	The purpose of this law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s law. [2 O.C. 206.1-1].
Affected Entities	Oneida Law Office, General Manager, Gaming General Manager, Retail General Manager, Human Resources Department Executive Director, Oneida Nation Judiciary
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. The Back Pay law was originally adopted by the Oneida Business Committee in 2006 through resolution BC-05-24-06-PP, and then amended through resolutions BC-06-23-10-F, BC-08-13-14-C, and BC-10-26-16-A. The purpose of the Back Pay law is to set forth standards used in the reinstatement of a wrongfully terminated employee and the calculation of back pay for all employees of the Nation in accordance with the Nation’s law. [2 O.C. 206.1-1]. It is the policy of the Nation to have consistent and standard procedures for the management of employee reinstatement and back pay. [2 O.C. 206.1-2].

B. Request for Amendments. On the September 14, 2022, the Oneida Business Committee adopted a motion to request the Legislative Operating Committee consider amendments to the Back Pay law. The Legislative Operating Committee added this legislative item to its Active Files List on September 21, 2022.

SECTION 3. CONSULTATION AND OUTREACH

A. Representatives from the following departments or entities participated in the development of the amendments to the Back Pay law and this legislative analysis:

- Oneida Law Office.

B. The following laws were reviewed in the drafting of this analysis:

- 19 ▪ Back Pay law;
- 20 ▪ Oneida Personnel Policies and Procedures;
- 21 ▪ Drug and Alcohol Free Workplace law;
- 22 ▪ Furlough law; and
- 23 ▪ Investigative Leave Policy.

24

25 **SECTION 4. PROCESS**

26 A. The development of the proposed amendments to the Back Pay law complies with the process set forth
27 in the Legislative Procedures Act (LPA).

- 28 ▪ On September 14, 2022, the Oneida Business Committee adopted a motion to request the
29 Legislative Operating Committee to add the Backpay Policy to the active files agenda and to
30 release the confidential memo to the Legislative Reference Office as a confidential document.
- 31 ▪ On September 21, 2022, the Legislative Operating Committee added the Law to its Active Files
32 List.
- 33 ▪ On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed
34 amendments to the Back Pay law and directed that a legislative analysis be developed.
- 35 ▪ On October 19, 2022, the Legislative Operating Committee approved the updated draft and
36 legislative analysis.

37 B. At the time this legislative analysis was developed the following work meetings had been held
38 regarding the development of the amendments to this Law:

- 39 ▪ September 29, 2022: LOC work session; and
- 40 ▪ October 13, 2022: LOC work session.

41

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

43 A. **Reinstatement.** A new section added to the Law through these amendments addresses reinstatement
44 of an employee who had a termination overturned. [2 O.C. 206.4]. This new section provides that
45 should an employee's appeal of a termination result in the termination being overturned, the reviewing
46 party shall order the employee be reinstated to the position from which the employee was wrongfully
47 terminated. [2 O.C. 206.4-1]. In the event the position the employee was terminated from has been
48 eliminated or the employee is no longer eligible for the position the employee was terminated from
49 based on amendments to the position description, the reviewing party shall order reinstatement to a
50 position within the same division of the organization the employee was terminated from that is
51 comparable in wage to the position the employee was terminated, to the extent it is available at the time
52 of the reviewing party's decision. [2 O.C. 206.4-1(a)]. Any order requiring the employee to be
53 reinstated to a position comparable to the position the employee was terminated from shall note the
54 requirement that the Human Resources Department shall make the determination that the employee is
55 eligible for a comparable position. [2 O.C. 206.4-1(b)]. If no comparable positions are available within
56 the same division of the organization the employee was terminated from that are comparable in wage
57 to the position the employee was terminated from, or if the employee is not eligible for the comparable
58 position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of
59 the reviewing party's decision. [2 O.C. 206.4-1(c)]. This new section also addresses the requirement to
60 hold the position pending litigation by providing that when an employee is terminated and thereafter
61 appeals said termination, the disciplining supervisor may only fill the employee's former position with
62 an interim employee until the appeal has fully run its course, which includes any appeal timelines to

63 the area manager, the Trial Court, or the Appellate Court. [2 O.C. 206.4-2]. Additionally, this section
64 of the Law provides that notwithstanding the requirement to hold the terminated employee's position
65 pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or
66 business unit may amend the affected position description or eliminate the affected position while an
67 employment appeal is pending where such actions are required to meet the Nation's business and
68 employment needs. [2 O.C. 206.4-3]. The determination to amend an affected position description or
69 eliminate an affected position shall be approved by the Human Resources Department Executive
70 Director and either the General Manager, Gaming General Manager, Retail General Manager, or the
71 highest position in the employee's chain of command for non-divisional employees. *Id.*

72 ■ *Effect.* The overall purpose of this new section to the Law is to provide direction and clarification
73 on how the reinstatement of an employee who had a termination overturned is handled, so that it
74 can be handled in a consistent manner throughout the Nation.

75 **B. *Back Pay Calculations.*** The proposed amendments to the Law clarify that back pay calculations shall
76 be made using the employee's last wage in the position which they were terminated from. [2 O.C.
77 206.5-1].

78 ■ *Effect.* This provision of the Law clarifies how back pay is calculated.

79 **C. *Explanation of When an Employee is Not Eligible to Work.*** The Law provides that the Nation shall
80 not include time when an employee would not have been eligible to work in the calculation of any back
81 pay amount. [2 O.C. 206.5-2(d)]. The proposed amendments to the Law provides greater clarification
82 by providing a list of examples of when an employee is not eligible to work, which includes such
83 circumstances such as when an employee is on layoff or furlough status at the time of termination;
84 when a position is eliminated or inactive as part of the Nation's response to a financial force majeure
85 event including, but not limited to, responses to war, global health pandemics, and/or any substantial
86 loss of revenue or funding; and when an employee would otherwise not be eligible to work in the
87 position from which they were terminated in accordance with the position description based on
88 applicable grant requirements when a position is grant funded, applicable laws of the Nation, including,
89 but not limited to, the Vehicle Driver Certification and Fleet Management law, and a criminal
90 conviction. [2 O.C. 206.5-2(d)(1)-(3)].

91 ■ *Effect.* This provision of the Law clarifies when it should be considered that an employee is not
92 eligible to work, and therefore is not eligible for back pay.

93 **SECTION 6. EXISTING LEGISLATION**

94 **A. *Related Legislation.*** The following laws of the Nation are related to the Back Pay law:

95 ■ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
96 Procedures is to provide for the Nation's employee related policies and procedures including
97 recruitment, selection, compensation and benefits, employee relations, safety and health, program
98 and enterprise rules and regulations, and record keeping.

99 ■ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses
100 complaints, disciplinary actions and grievances. Section V.D.6 provides that any employee
101 who receives a disciplinary action which he/she believes is unfair may grieve the action.
102 Section V.D.6.f.5 then provides that the Oneida Personnel Commission may: uphold the
103 disciplinary action; or overturn the disciplinary action and either reinstate the employee with
104 full back pay for any lost time or reinstate the employee without back pay.
105

- 106 ▪ The Back Pay law will now address the reinstatement of an employee who has a termination
107 overtaken in section 206.4, as well as provide greater clarification on how back pay is
108 calculated in section 206.5.
- 109 ▪ *Drug and Alcohol Free Workplace Law.* It is the policy of the Nation to establish a drug and
110 alcohol-free workplace program that balances respect for individuals with the need to maintain an
111 alcohol and drug-free environment. [2 O.C. 202.1-1].
- 112 ▪ The Drug and Alcohol Free Workplace law provides that it is the employee’s responsibility to
113 cooperate with the requests made by Employee Health Nursing and the Medical Review
114 Officer. [2 O.C. 202.5-2(e)]. An employee who fails to cooperate and does not contact the
115 MRO within twenty-four (24) hours of receiving contact shall not receive back pay for any
116 time between the date the MRO placed the call until the time the employee does return the call
117 of the MRO. *Id.*
- 118 ▪ The Drug and Alcohol Free Workplace law provides that during drug and alcohol testing for
119 reasonable suspicion, an employee shall be immediately removed from duty without pay at the
120 time of initiation of the reasonable suspicion drug and alcohol testing and specimen collection
121 until the employer is notified by Employee Health Nursing of negative results on both the drug
122 and alcohol tests, or Medical Review Officer verified negative test results. [2 O.C. 202.10-2].
123 If the employee is reinstated after confirmation of drug and alcohol testing results, back pay
124 shall be provided in accordance with the Back Pay law. [2 O.C. 202.10-3].
- 125 ▪ *Furlough Law.* The purpose of the Furlough law is to enable the Nation to implement a furlough
126 program in response to an interruption of governmental revenues or operations, insufficient treasury
127 funds or other emergencies/ unplanned events as determined by the Oneida Business Committee in
128 accordance with this law; establish a consistent and equitable process for implementation of a
129 furlough program; and incorporate Indian preference into the furlough program and require that it
130 be applied in accordance with this law. [2 O.C. 205.1-1].
- 131 ▪ The Furlough law provides that except when an employee successfully appeals being placed
132 on furlough status in violation of this law, employees placed in furlough status shall not be
133 eligible for back pay upon their return to work. [2 O.C. 205.8-6].
- 134 ▪ *Investigative Leave Policy.* The purpose of the Investigative Leave Policy is to address
135 investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1].
- 136 ▪ The Investigative Leave Policy provides that an employee placed on investigative leave shall
137 not receive any wages or benefits unless placed in an alternative work assignment, and that if
138 the employee refuses the alternative work assignment and is returned to work, the employee
139 shall not receive any back pay or benefits. [2 O.C. 208.10-2].
- 140 ▪ The Investigative Leave Policy provides that an employee shall receive back pay and benefits
141 for the time the employee was on investigative leave pursuant to the Back Pay law if all of the
142 following occur: the employee was not offered an alternative work assignment when placed on
143 investigative leave; the employee is returned to his or her position; and the employee is not
144 disciplined based on the investigation. [2 O.C. 208.10-4].
- 145

146 **SECTION 7. OTHER CONSIDERATIONS**

- 147 **A. Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
148 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
149 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*

150 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
151 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
152 completing the fiscal impact statement.

153 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
154 statement be completed.

155

Title 2. Employment – Chapter 206

~~BACK PAY~~

Tashakotikályahke? kayanl\hsla?

back pay law

BACK PAY AND REINSTATEMENT

~~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~~

~~206.2. Adoption, Amendment, Appeal~~

~~206.3. Definitions~~

~~206.4. Reinstatement~~

~~206.5. Back Pay Calculation~~

~~206.6. Back Pay Process~~

1

206.1. Purpose and Policy

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

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

8

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~~,~~ and BC- - - -.

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.

21

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) “Appellate Court” means the branch of the Nation’s Judiciary delegated the authority of final appeals within the Nation’s Judiciary, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the Constitution and Bylaws of the Oneida Nation.

(~~a~~)(b) “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~~)(c) “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~~)(d) “Consequential damages” means damages that are not a direct and immediately

Draft 2 (Redline to Current)

2022 10 19

35 result of an act, but a consequence of the initial act, including but not limited to penalties
36 on early withdrawal of retirement account.

37 ~~(d) "Consultant" means a professional who is contracted externally whose expertise is~~
38 ~~provided on a temporary basis for a fee.~~

39 (e) "Earnings" includes vacation ~~/~~ or personal time, shift differential, holiday pay, merit
40 increases, bonuses and incentives, employment benefits and income received during the
41 back pay period.

42 (f) "Employee" means any individual who is employed by the Nation and is subject to the
43 direction and control of the Nation with respect to the material details of the work
44 performed, or who has the status of an employee under the usual common law rules
45 applicable to determining the employer-employee relationship. "Employee" includes, but
46 is not limited to, an individual employed by any program or enterprise of the Nation, but
47 does not include elected or appointed officials, or individuals employed by a Tribally
48 Chartered Corporation. For purposes of this law, individuals employed under an
49 employment contract as a limited term employee are employees of the Nation, not
50 consultants.

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

54 (h) "Judiciary" means Oneida Nation Judiciary, which is the judicial system that was
55 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
56 authorized to administer the judicial authorities and responsibilities of the Nation by
57 Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V
58 of the Constitution and Bylaws of the Oneida Nation.

59 (i) "Nation" means the Oneida Nation.

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

63 (k) "Reviewing party" means the area manager or the Trial Court.

64 (l) "Trial Court" means the Trial Court of the Oneida Nation Judiciary authorized to
65 administer the judicial authorities and responsibilities of the Nation by Oneida General
66 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the
67 Constitution and Bylaws of the Oneida Nation.

68 69 **206.4. Reinstatement**

70 206.4-1. Reinstatement to the Position the Employee was Terminated From. Should an employee's
71 appeal of a termination result in the termination being overturned, the reviewing party shall order
72 the employee be reinstated to the position from which the employee was wrongfully terminated.

73 (a) In accordance with section 206.4-3, in the event the position the employee was
74 terminated from has been eliminated or the employee is no longer eligible for the position
75 the employee was terminated from based on amendments to the position description, the
76 reviewing party shall order reinstatement to a position within the same division of the
77 organization the employee was terminated from that is comparable in wage to the position
78 the employee was terminated, to the extent it is available at the time of the reviewing party's
79 decision.

80 (b) Any order requiring the employee to be reinstated to a position comparable to the
81 position the employee was terminated from shall note the requirement that the Human

Draft 2 (Redline to Current)
2022 10 19

Resources Department shall make the determination that the employee is eligible for a comparable position.

(c) If no comparable positions are available within the same division of the organization the employee was terminated from that are comparable in wage to the position the employee was terminated from, or if the employee is not eligible for the comparable position, the order to reinstate shall be deemed satisfied and the back pay end date shall be the date of the reviewing party's decision.

206.4-2. Requirement to Hold the Position Pending Litigation. When an employee is terminated and thereafter appeals said termination, the disciplining supervisor may only fill the employee's former position with an interim employee until the appeal has fully run its course, which includes any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

206.4-3. Amending the Position Description or Eliminating the Position Pending an Employee Appeal. Notwithstanding the requirement to hold the terminated employee's position pending an employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit may amend the affected position description or eliminate the affected position while an employment appeal is pending where such actions are required to meet the Nation's business and employment needs. The determination to amend an affected position description or eliminate an affected position shall be approved by the Human Resources Executive Director and either the General Manager, Gaming General Manager, Retail General Manager, or the highest position in the employee's chain of command for non-divisional employees.

206.5. Back Pay Calculation

206.4-1. Back Pay Limitations. Back pay shall only include the items identified calculations shall be made using the employee's last wage in the position which they were terminated from. Back pay, in all circumstances, shall be limited to the calculation set forth in this Section as they relate to the employee. section. Back pay shall include and be subject to the following as it is related to the employee:

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

(1) Reinstated employees shall be credited for vacation and personal time. -If the crediting of vacation and 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 and personal time in lieu of crediting personal and 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 or standard used by the employee's supervisor

Draft 2 (Redline to Current)

2022 10 19

129 during the back pay period and ~~will~~shall include any increases from Oneida Business
130 Committee or General Tribal Council directives.

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

135 (2) The most recent performance review issued to the employee prior to being
136 involuntarily separated shall be used to determine the level of merit increase.
137 However, if the employee appealed the performance review to the Human Resource
138 Department Manager prior to involuntary separation, a method under the Nation's
139 laws, rules and policies shall be used to determine the merit increase.

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

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

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

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

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

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

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

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

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

Draft 2 (Redline to Current)

2022 10 19

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

180 (C) If the employee was not participating in the Nation's retirement plan or
 181 chooses not to make contributions through the back pay process, then the
 182 Nation shall not make employer match contributions into the employee's
 183 retirement account.

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

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

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

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

195 (2) *Income Received Through Employment.* Except as provided in section 4206.5-
 196 1(h)(2)(B), income earned by an employee during the back pay period shall be
 197 deducted from the total back pay amount.

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

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

208 206.45-2. Payments Not Allowed. The Nation shall not include the following in any back pay
 209 amount:

210 (a) Punitive damages;

211 (b) Consequential damages;

212 (c) Attorney's or advocate's fees;

213 (d) Time when the employee would not have been eligible to work; An employee is not
 214 eligible to work in circumstances including, but not limited to, the following:

215 (1) When an employee is on layoff or furlough status at the time of termination;

216 (2) When a position is eliminated or inactive as part of the Nation's response to a
 217 financial force majeure event including, but not limited to:

218 (A) responses to war;

219 (B) global health pandemics; and

220 (C) any substantial loss of revenue or funding; and

221 (3) When an employee would otherwise not be eligible to work in the position from
 222 which they were terminated from in accordance with the position description based

on:

- (A) applicable grant requirements when the position is grant funded;
- (B) applicable laws of the Nation including, but not limited to, the Vehicle Driver Certification and Fleet Management law; and
- (C) a criminal conviction;

(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.

206.45-3. *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.

206.56. Back Pay Process

206.56-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of implementing this law.

206.56-2. Internal departments shall cooperate as necessary with the Oneida Law Office in providing information needed to assemble and prepare the back pay agreement.

206.56-3. 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.

206.56-4. An employee not receiving back pay in accordance with the back pay agreement may seek enforcement by the Judiciary.

End.

Adopted - BC-05-24-06-PP
 Amended - BC-06-23-10-F
 Amended - BC-08-13-14-C
 Amended - BC-10-26-16-A
 Amended - BC- - - -

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

206.1. Purpose and Policy	206.5. Back Pay Calculation
206.2. Adoption, Amendment, Appeal	206.6. Back Pay Process
206.3. Definitions	
206.4. Reinstatement	

1
2 **206.1. Purpose and Policy**
3 206.1-1. *Purpose.* The purpose of this law is to set forth standards used in the reinstatement of a
4 wrongfully terminated employee and the calculation of back pay for all employees of the Nation
5 in accordance with the Nation’s law.
6 206.1-2. *Policy.* It is the policy of the Nation to have consistent and standard procedures for the
7 management of employee reinstatement and back pay.
8
9 **206.2. Adoption, Amendment, Appeal**
10 206.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-24-06-PP
11 and amended by resolutions BC-06-23-10-F, BC-08-13-14-C, BC-10-26-16-A, and BC-__-__-__-
12 __.
13 206.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida
14 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
15 206.2-3. Should a provision of this law or the application thereof to any person or circumstances
16 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
17 to have legal force without the invalid portions.
18 206.2-4. In the event of a conflict between a provision of this law and a provision of another law,
19 the provisions of this law shall control.
20 206.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
21
22 **206.3. Definitions**
23 206.3-1. This section shall govern the definitions of words and phrases used within this law. All
24 words not defined herein shall be used in their ordinary and everyday sense.
25 (a) “Appellate Court” means the branch of the Nation’s Judiciary delegated the authority
26 of final appeals within the Nation’s Judiciary, as authorized by Oneida General Tribal
27 Council resolution GTC-03-19-17-A in accordance with Article V of the Constitution and
28 Bylaws of the Oneida Nation.
29 (b) “Advocate” means a non-attorney person as provided by law and other person who is
30 admitted to practice law and is presented to the court as the representative or advisor to a
31 party.
32 (c) “Back pay” means money damages owed to the employee for a salary or wage to
33 compensate the employee as determined by the formulas set forth within this law.
34 (d) “Consequential damages” means damages that are not a direct and immediately result
35 of an act, but a consequence of the initial act, including but not limited to penalties on early
36 withdrawal of retirement account.
37 (e) “Earnings” includes vacation or personal time, shift differential, holiday pay, merit

38 increases, bonuses and incentives, employment benefits and income received during the
39 back pay period.

40 (f) "Employee" means any individual who is employed by the Nation and is subject to the
41 direction and control of the Nation with respect to the material details of the work
42 performed, or who has the status of an employee under the usual common law rules
43 applicable to determining the employer-employee relationship. "Employee" includes, but
44 is not limited to, an individual employed by any program or enterprise of the Nation but
45 does not include elected or appointed officials, or individuals employed by a Tribally
46 Chartered Corporation. For purposes of this law, individuals employed under an
47 employment contract as a limited term employee are employees of the Nation, not
48 consultants.

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

52 (h) "Judiciary" means Oneida Nation Judiciary, which is the judicial system that was
53 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
54 authorized to administer the judicial authorities and responsibilities of the Nation by
55 Oneida General Tribal Council resolution GTC-03-19-17-A in accordance with Article V
56 of the Constitution and Bylaws of the Oneida Nation.

57 (i) "Nation" means the Oneida Nation.

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

61 (k) "Reviewing party" means the area manager or the Trial Court.

62 (l) "Trial Court" means the Trial Court of the Oneida Nation Judiciary authorized to
63 administer the judicial authorities and responsibilities of the Nation by Oneida General
64 Tribal Council resolution GTC-03-19-17-A in accordance with Article V of the
65 Constitution and Bylaws of the Oneida Nation.

66 **206.4. Reinstatement**

67 **206.4-1. *Reinstatement to the Position the Employee was Terminated From.*** Should an employee's
68 appeal of a termination result in the termination being overturned, the reviewing party shall order
69 the employee be reinstated to the position from which the employee was wrongfully terminated.

70 (a) In accordance with section 206.4-3, in the event the position the employee was
71 terminated from has been eliminated or the employee is no longer eligible for the position
72 the employee was terminated from based on amendments to the position description, the
73 reviewing party shall order reinstatement to a position within the same division of the
74 organization the employee was terminated from that is comparable in wage to the position
75 the employee was terminated, to the extent it is available at the time of the reviewing party's
76 decision.

77 (b) Any order requiring the employee to be reinstated to a position comparable to the
78 position the employee was terminated from shall note the requirement that the Human
79 Resources Department shall make the determination that the employee is eligible for a
80 comparable position.

81 (c) If no comparable positions are available within the same division of the organization
82 the employee was terminated from that are comparable in wage to the position the
83 employee was terminated from, or if the employee is not eligible for the comparable
84

85 position, the order to reinstate shall be deemed satisfied and the back pay end date shall be
86 the date of the reviewing party's decision.

87 206.4-2. *Requirement to Hold the Position Pending Litigation.* When an employee is terminated
88 and thereafter appeals said termination, the disciplining supervisor may only fill the employee's
89 former position with an interim employee until the appeal has fully run its course, which includes
90 any appeal timelines to the area manager, the Trial Court, or the Appellate Court.

91 206.4-3. *Amending the Position Description or Eliminating the Position Pending an Employee*
92 *Appeal.* Notwithstanding the requirement to hold the terminated employee's position pending an
93 employee's appeal of their termination as provided in section 206.4-2, a supervisor or business unit
94 may amend the affected position description or eliminate the affected position while an
95 employment appeal is pending where such actions are required to meet the Nation's business and
96 employment needs. The determination to amend an affected position description or eliminate an
97 affected position shall be approved by the Human Resources Executive Director and either the
98 General Manager, Gaming General Manager, Retail General Manager, or the highest position in
99 the employee's chain of command for non-divisional employees.

100

101 **206.5. Back Pay Calculation**

102 206.5-1. *Back Pay Limitations.* Back pay calculations shall be made using the employee's last
103 wage in the position which they were terminated from. Back pay, in all circumstances, shall be
104 limited to the calculation set forth in this section. Back pay shall include and be subject to the
105 following as it is related to the employee:

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

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

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

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

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

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

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

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

131 (2) The most recent performance review issued to the employee prior to being

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

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

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

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

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

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

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

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

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

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

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

176 (C) If the employee was not participating in the Nation's retirement plan or
177 chooses not to make contributions through the back pay process, then the
178 Nation shall not make employer match contributions into the employee's

179 retirement account.

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

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

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

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

191 (2) *Income Received Through Employment.* Except as provided in section 206.5-
192 1(h)(2)(B), income earned by an employee during the back pay period shall be
193 deducted from the total back pay amount.

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

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

204 206.5-2. *Payments Not Allowed.* The Nation shall not include the following in any back pay
205 amount:

206 (a) Punitive damages;

207 (b) Consequential damages;

208 (c) Attorney's or advocate's fees;

209 (d) Time when the employee would not have been eligible to work. An employee is not
210 eligible to work in circumstances including, but not limited to, the following:

211 (1) When an employee is on layoff or furlough status at the time of termination;

212 (2) When a position is eliminated or inactive as part of the Nation's response to a
213 financial force majeure event including, but not limited to:

214 (A) responses to war;

215 (B) global health pandemics; and

216 (C) any substantial loss of revenue or funding; and

217 (3) When an employee would otherwise not be eligible to work in the position from
218 which they were terminated from in accordance with the position description based
219 on:

220 (A) applicable grant requirements when the position is grant funded;

221 (B) applicable laws of the Nation including, but not limited to, the Vehicle
222 Driver Certification and Fleet Management law; and

223 (C) a criminal conviction;

224 (e) Monies normally paid for additional duties while working where an alternate employee
225 assumed that function while the employee was involuntarily separated, unless the

226 additional duties are a part of such involuntarily separated employee's regular schedule.
227 206.5-3. *Back Pay Period.* Calculation of back pay begins on the day the employee is
228 involuntarily separated and ends on the day the employee is reinstated.

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

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

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

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

245
246 **206.6. Back Pay Process**

247 206.6-1. The Oneida Law Office shall develop necessary forms and procedures for the purpose of
248 implementing this law.

249 206.6-2. Internal departments shall cooperate as necessary with the Oneida Law Office in
250 providing information needed to assemble and prepare the back pay agreement.

251 206.6-3. A reasonable effort shall be made to complete the back pay agreement within thirty (30)
252 calendar days, starting the day after the party to the grievance action provides to the Oneida Law
253 Office a judgment ordering back pay or the results of an investigation or test showing the employee
254 is cleared of any wrongdoing.

255 206.6-4. An employee not receiving back pay in accordance with the back pay agreement may
256 seek enforcement by the Judiciary.

257
258 *End.*
259

260 Adopted - BC-05-24-06-PP
261 Amended - BC-06-23-10-F
262 Amended - BC-08-13-14-C
263 Amended - BC-10-26-16-A
264 Amended - BC-__-__-__-__



Legislative Operating Committee
 October 19, 2022

Emergency Management Law Amendments

Submission Date: 7/6/22	Public Meeting: N/A
LOC Sponsor: Marie Cornelius	Emergency Enacted: 9/14/22

Summary: *During the June 24, 2022, Storm Emergency Debrief session between the Oneida Business Committee and the Emergency Management Director it was identified that amendments would be needed to the Emergency Management law to address the composition of the Oneida Emergency Planning Committee. Some of the positions identified in the ONEPC Bylaws are direct reports to the Oneida Business Committee or General Manager, or are employees of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications. Currently, section 105.15-3 of the Boards, Committees, and Commissions law provides that direct reports to the Oneida Business Committee or General Manager, or are employees of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications are ineligible to serve on an appointed or elected boards, committee, or commission of the Nation. An exemption to this prohibition needs to be included for the Oneida Nation Emergency Planning Committee since it is essential that direct reports and employees of those designated areas participate on this committee. The Oneida Business Committee adopted emergency amendments to the Emergency Management law on September 14, 2022, through the adoption of resolution BC-09-14-22-B. These emergency amendments will expire on March 14, 2022.*

7/6/22 LOC: Motion by Daniel Guzman King to add the Emergency Management law emergency amendments to the Active Files List with Marie Summers as the sponsor; seconded by Marie Summers. Motion carried unanimously.

7/18/22: *Work Meeting.* Present: David P. Jordan, Clorissa N. Santiago, Lisa Summers, Brooke Doxtator, Mark Powless, Kaylynn Gresham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a plan for addressing amendments to the Emergency Management law and the Oneida Nation Emergency Planning Committee Bylaws.

8/2/22: *Work Meeting.* Present: David P. Jordan, Clorissa N. Santiago, Lisa Summers, Brooke Doxtator, Mark Powless, Kaylynn Gresham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss policy issues that need to be addressed in the amendments to the Emergency Management law and the Oneida Nation Emergency Planning Committee bylaws amendments.

8/25/22: *Work Meeting.* Present: David P. Jordan, Clorissa N. Santiago, Lisa Summers, Brooke Doxtator, Mark Powless, Kaylynn Gresham, Carolyn Salutz, Grace Elliot. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the draft of proposed amendments to the Emergency Management law and accompanying resolution.

8/25/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carolyn Salutz, Grace Elliot. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the draft of proposed amendments to the Emergency Management law.

8/30/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Kirby Metoxen, Clorissa N. Santiago, Rhiannon Metoxen, Kristal Hill, Grace Elliot, Kaylynn Gresham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the draft of proposed amendments to the Emergency Management law.

9/7/22 LOC: 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.

9/14/22 OBC: Motion by Lisa Liggins to adopt resolution entitled 09-14-22-B Emergency Amendments to the Emergency Management Law, seconded by Marie Cornelius. Motion carried.

10/4/22: *Work Meeting.* Present: David P. Jordan, Clorissa N. Leeman, Louise Cornelius, Mark Powless, Melissa Alvarado, Derrick King, Kaylynn Gresham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussion on the development of the Emergency Management Operations Team SOP as required by resolution BC-09-14-22-B.

10/5/22 LOC: Motion by Jennifer Webster to approve the draft of the proposed amendments to the Emergency Management law and direct that a legislative analysis be completed; seconded by Daniel Guzman King. Motion carried unanimously.

10/19/22 LOC: Motion by Jennifer Webster to approve the legislative analysis of the Emergency Management law; seconded by Marie Cornelius. Motion carried unanimously.

Next Steps:

- Approve the public meeting packet, and forward the Emergency Management law amendments to a public meeting to be held on December 13, 2022.

ONEIDA NATION PUBLIC MEETING NOTICE**TUESDAY, DECEMBER 13 2022, 12:15 pm**Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin**Find Public Meeting Materials at**

Oneida-nsn.gov/government/register/public meetings

Send Public Comments to

LOC@oneidation.org

Ask Questions here

LOC@oneidation.org

920-869-4417

**EMERGENCY MANAGEMENT LAW AMENDMENTS**

The purpose of the Emergency Management law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; to provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; to establish the use of the National Incident Management System (NIMS); and to designate authority and responsibilities for public health preparedness.

The Emergency Management law amendments will:

- ◆ Eliminate the Oneida Nation Emergency Planning Committee and replace it with an Emergency Management Operations Team.
- ◆ Provide that members of the Emergency Management Operations Team shall attend meetings, or send a designee in their absence, and comply with any training requirements set forth by the Emergency Management Director.
- ◆ Require that within forty-eight (48) hours of an emergency, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an emergency briefing to be presented to the Oneida Business Committee regarding the status of the emergency, actions taken to address the emergency, and the activation of the Emergency Response Plan.
- ◆ Allow the Oneida Business Committee to direct the Emergency Management Director to provide additional emergency briefings to the Oneida Business Committee.
- ◆ Require that within thirty (30) days of an emergency subsiding, unless additional time is granted by the Oneida Business Committee, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, a preliminary emergency assessment report to be presented to the Oneida Business Committee, any interested entity, and the public.
- ◆ Extend the amount of time for the Emergency Management Director to prepare and present an after-action report to the Oneida Business Committee, any interested entity, and the public, from sixty (60) days to ninety (90) days .

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

If the Norbert Hill Center's Administrative Offices guidelines prohibits a public meeting from being held in person on December 13, 2022, based on the COVID-19 Community levels in Brown and Outagamie Counties, then the public meeting will be held solely on Microsoft Teams.

PUBLIC COMMENT PERIOD CLOSSES TUESDAY, DECEMBER 20, 2022

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



For more information on the proposed Emergency Management law amendments please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.



EMERGENCY MANAGEMENT LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Eliminate the Oneida Nation Emergency Planning Committee and replace it with an Emergency Management Operations Team. <i>[3 O.C. 302.5-1]</i>; ▪ Provide that members of the Emergency Management Operations Team shall attend meetings, or send a designee in their absence, and comply with any training requirements set forth by the Emergency Management Director. <i>[3 O.C. 302.5-3]</i>; ▪ Require that within forty-eight (48) hours of an emergency, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an emergency briefing to be presented to the Oneida Business Committee regarding the status of the emergency, actions taken to address the emergency, and the activation of the Emergency Response Plan. <i>[3 O.C. 302.8-4]</i>; ▪ Allow the Oneida Business Committee to direct the Emergency Management Director to provide additional emergency briefings to the Oneida Business Committee. <i>[3 O.C. 302.8-4]</i>; ▪ Require that within thirty (30) days of an emergency subsiding, unless additional time is granted by the Oneida Business Committee, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, a preliminary emergency assessment report to be presented to the Oneida Business Committee, any interested entity, and the public. <i>[3 O.C. 302.8-5]</i>; ▪ Extend the amount of time for the Emergency Management Director to prepare and present an after-action report to the Oneida Business Committee, any interested entity, and the public, from sixty (60) days to ninety (90) days. <i>[3 O.C. 302.8-6]</i>.
Purpose	To provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; to provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; to establish the use of the National Incident Management System (NIMS); and to designate authority and responsibilities for public health preparedness. <i>[3 O.C. 302.1-1]</i>
Affected Entities	Emergency Management Operations Team, Emergency Management Director, Oneida Business Committee
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period. The emergency amendments to this law will expire on March 14, 2022.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. *Background.* The Emergency Management law (“the Law”) was first adopted by the Oneida Business Committee on July 15, 1998,(formally known as the Emergency Management and Homeland Security law) and most recently amended on March 10, 2021. The Law provides for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; to provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; to establish the use of the National Incident Management System (NIMS); and to designate authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].

B. *Adoption of Emergency Amendments.* On June 15, 2022, the Oneida Nation and surrounding areas experienced a severe thunderstorm, high winds and tornados affecting power, damaging homes and businesses, and impacting access through downed trees causing multiple buildings and much of the programs and services of the Nation to be negatively impacted through damage to buildings, lack of power and utilities, and inability of employees to come to work as a result of the same impact on their homes. The Oneida Business Committee declared an emergency resulting from the damages caused by the June 15, 2022, severe weather through the adoption of resolution BC-06-20-22-A, *Declaration of Emergency Resulting from the Damages Caused by the June 15, 2022, Severe Weather and Tornado.* On June 24, 2022, the Oneida Business Committee storm held an emergency debrief session with the Emergency Management Director, and in that meeting it was identified that amendments to the Emergency Management law would be needed to address the Oneida Nation Emergency Planning Committee, and the difficulties of composing this Team to meet the needs of the Nation for an emergency response. The Legislative Operating Committee added these amendments to its Active Files List on July 6, 2022, and determined that these amendments should be pursued on an emergency basis.

- The Oneida Nation Emergency Planning Committee assists the Emergency Management Director in drafting and maintaining the Emergency Response Plan, and at the request of the Emergency Management Director, the Oneida Nation Emergency Planning Committee shall provide assistance to the Emergency Management Director in the implementation of the provisions of this law or any plan issued thereunder. The Oneida Nation Emergency Planning Committee shall consist of representatives from entities and a community representative as identified in the Oneida Nation Emergency Planning Committee bylaws.
- Some of the positions identified in the Bylaws are direct reports to the Oneida Business Committee or General Manager, or are employees of the Nation’s Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications. Currently, section 105.15-3 of the Boards, Committees, and Commissions law provides that direct reports to the Oneida Business Committee or General Manager, or are employees of the Nation’s Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications are ineligible to serve on an appointed or elected boards, committee, or commission of the Nation. Amendments to the Law are being sought to address the Oneida Nation Emergency Planning Committee since it is essential that direct reports and employees of those designated areas participate on this committee in order to achieve the best emergency response for the Nation.
- The emergency adoption of amendments to this Law were necessary for the preservation of the safety and general welfare of the Reservation population in order to ensure that the Nation can adequately respond to emergencies that occur by ensuring that there is an Emergency Management

45 Operations Team that can assist the Emergency Management Director in drafting and maintaining
46 the Emergency Response Plan., as well as assist the Emergency Management Director in the
47 implementation of the provisions of this law or any plan issued thereunder.

- 48 ■ Observance of the requirements under the Legislative Procedures Act for adoption of the
49 emergency amendments to this Law were contrary to public interest since the process and
50 requirements of the Legislative Procedures Act cannot be completed in time to ensure that the
51 Emergency Management Operations Team can be established and prepared to aid in the emergency
52 response prior to the next emergency occurring within the Nation.
- 53 ■ The Oneida Business Committee adopted emergency amendments to the Emergency Management
54 law on September 14, 2022, through the adoption of resolution BC-09-14-22-B. The emergency
55 amendments to the Emergency Management law will expire on March 14, 2022.

56

57 **SECTION 3. CONSULTATION AND OUTREACH**

58 A. Representatives from the following departments or entities participated in the development of the
59 emergency amendments to this Law and legislative analysis:

- 60 ■ Emergency Management Department;
- 61 ■ General Manager; and
- 62 ■ Government Administrative Office.

63 B. The following laws were reviewed in the drafting of this analysis:

- 64 ■ Emergency Management law; and
- 65 ■ Boards, Committees, and Commissions law.

66

67 **SECTION 4. PROCESS**

68 A. The development of the proposed amendments to the Emergency Management law complies with the
69 process set forth in the Legislative Procedures Act (LPA).

- 70 ■ On July 6, 2022, the Legislative Operating Committee added the Law to its Active Files List.
- 71 ■ On September 7, 2022, the Legislative Operating Committee approved the Emergency
72 Management law emergency amendments adoption packet and forward these materials to the
73 Oneida Business Committee for consideration.
- 74 ■ On September 14, 2022, the Oneida Business Committee adopted resolution BC-09-14-22-B
75 entitled, *Emergency Amendments to the Emergency Management Law*.
- 76 ■ On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed
77 amendments to the Emergency Management law and directed that a legislative analysis be
78 completed.
- 79 ■ On October 19, 2022, the Legislative Operating Committee approved the legislative analysis.

80 B. The Legislative Operating Committee has held the following work meetings specific to the proposed
81 emergency amendments to this Law:

- 82 ■ July 18, 2022: Work Session with Governmental Administrative Office, General Manager, and
83 Emergency Management Department.
- 84 ■ August 2, 2022: Work Session with Governmental Administrative Office, General Manager, and
85 Emergency Management Department.
- 86 ■ August 25, 2022: Work Session with Governmental Administrative Office, General Manager, and
87 Emergency Management Department.

- 88 ▪ August 25, 2022: LOC work session.
- 89 ▪ August 30, 2022: LOC work session with the Emergency Management Department.
- 90 ▪ October 4, 2022: Work Session with Gaming General Manager and Staff, General Manager,
- 91 Finance Administration, and the Emergency Management Director.
- 92

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

94 **A. *Emergency Management Operations Team.*** Previously the Law provided that there be an Oneida
95 Nation Emergency Planning Committee which consisted of representatives from entities and a
96 community representative as identified in the Oneida Nation Emergency Planning Committee bylaws
97 as approved by the Oneida Business. The proposed amendments to the Law eliminate the Oneida Nation
98 Emergency Planning Committee and replace it with an Emergency Management Operations Team. [3
99 *O.C. 302.5-1*]. The Emergency Management Operations Team consists of representatives from entities
100 as identified by the Emergency Management Director. *Id.* The purpose of the Emergency Management
101 Operations Team remains the same as the purpose of the Oneida Nation Emergency Planning
102 Committee, which is to assist the Emergency Management Director in drafting and maintaining the
103 Emergency Response Plan, as well as to assist the Emergency Management Director in the
104 implementation of any provision of the Law or any plan issued thereunder. [3 *O.C. 302.5-2*].
105 Additionally, a new provision added to the Law sets expectations for the Emergency Management
106 Operations Team by providing the requirement that members attend meetings, or send a designee in
107 their absence, and comply with any training requirements set forth by the Emergency Management
108 Director. [3 *O.C. 302.5-3*].

- 109 ▪ ***Effect.*** The proposed amendments to the Law replace the Oneida Nation Emergency Planning
110 Committee with the Emergency Management Operations Team. This revision demonstrates
111 that the Nation is better suited with the Emergency Management Operations Team which exists
112 not as a board, committee, or commission of the Nation, but instead as a network of different
113 employee positions throughout the Nation that all have a responsibility to aid in the Nation’s
114 response to emergencies. This eliminates the previous difficulty in composing this Team to
115 meet the needs of the Nation for an emergency response since a conflict with section 105.15-3
116 of the Boards, Committees, and Commissions law no longer exists, and the direct reports and
117 employees of those designated areas can now participate on this Emergency Management
118 Operations Team to achieve the best emergency response for the Nation.

119 **B. *Emergency Briefings.*** A new provision was added to the Law which requires that within forty-eight
120 (48) hours of an emergency, the Emergency Management Director shall prepare, or shall work in
121 conjunction with the appropriate entity to prepare, an emergency briefing to be presented to the Oneida
122 Business Committee regarding the status of the emergency, actions taken to address the emergency,
123 and the activation of the Emergency Response Plan. [3 *O.C. 302.8-4*]. The Oneida Business Committee
124 may then direct the Director to provide additional emergency briefings. *Id.*

- 125 ▪ ***Effect.*** The new provision ensures that the Emergency Management Director is briefing the
126 Oneida Business Committee on the status of the emergency, actions taken to address the
127 emergency, and the activation of the Emergency Response Plan so that the Oneida Business
128 Committee stays informed on an emergency occurring within the Nation in an effort to make
129 better policy decisions and provide greater communication to the community.

130 **C. *Preliminary Emergency Assessment Report.*** A new provision was added to the Law which requires
131 that after an emergency has subsided, the Director shall prepare, or shall work in conjunction with the

132 appropriate entity to prepare, a preliminary emergency assessment report to be presented to the Oneida
133 Business Committee, any interested entity, and the public. [3 O.C. 302.8-5]. This report is required to
134 be presented to the parties no later than thirty (30) days after the emergency has subsided, unless an
135 extension is granted by the Oneida Business Committee.

- 136 ▪ *Effect.* The new provision to the Law ensures the Emergency Management Director is
137 providing the Oneida Business Committee, any interested entity, and the public with a
138 preliminary report that reviews the Nation’s response to an emergency and identifies any areas
139 in which the response could have been improved. Providing this information in a preliminary
140 emergency assessment report allows the Nation to be best prepared in how to improve
141 emergency response, in case an additional emergency occurs before the full analysis of a
142 particular emergency response can be provided in the after-action report.

143 **D. *Extension of the Timeframe for an After-Action Report.*** Previously, the Law provided that after an
144 emergency has subsided, the Emergency Director shall prepare, or shall work in conjunction with the
145 appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee,
146 any interested entity, and the public no later than sixty (60) days after the emergency has subsided,
147 unless an extension is granted by the Oneida Business Committee. The amendments to the Law extend
148 the timeframe for when an after-action report is required to be presented from sixty (60) days to ninety
149 (90) days. [3 O.C. 302.8-6].

- 150 ▪ *Effect.* The amendments to the Law provide the Emergency Management Director additional
151 time to prepare an after-action report to be presented to the Oneida Business Committee, any
152 interested entity, and the public. The Emergency Management Director informed the
153 Legislative Operating Committee that sixty (60) days is not a sufficient time allowance to
154 complete this report, especially when there are times that information needs to be collected
155 from other agencies to be included in the report.

156 157 **SECTION 6. EXISTING LEGISLATION**

158 **A. *Related Legislation.*** The following laws of the Nation are related to the emergency amendments to this
159 Law:

- 160 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
161 Council on January 7, 2013, for the purpose of providing a standard process for the adoption
162 of laws of the Nation which includes taking into account comments from members of the
163 Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - 164 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
165 legislation when the legislation is necessary for the immediate preservation of the
166 public health, safety, or general welfare of the Reservation population and the
167 enactment or amendment of legislation is required sooner than would be possible under
168 this law. [1 O.C. 109.9-5].
 - 169 ▪ The Legislative Operating Committee is responsible for first reviewing the
170 emergency legislation and for forwarding the legislation to the Oneida
171 Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - 172 ▪ The proposed emergency legislation is required to have a legislative analysis
173 completed and attached prior to being sent to the Oneida Business Committee
174 for consideration. [1 O.C. 109.9-5(a)].

- 175 a. A legislative analysis is a plain language analysis describing the
176 important features of the legislation being considered and factual
177 information to enable the Legislative Operating Committee to make
178 informed decisions regarding legislation. A legislative analysis
179 includes a statement of the legislation’s terms and substance; intent of
180 the legislation; a description of the subject(s) involved, including any
181 conflicts with Oneida or other law, key issues, potential impacts of the
182 legislation and policy considerations. [1 O.C. 109.3-1(g)].
- 183 ■ Emergency legislation does not require a fiscal impact statement to be
184 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
 - 185 ■ Upon the determination that an emergency exists the Oneida Business
186 Committee can adopt emergency legislation. The emergency legislation
187 becomes effective immediately upon its approval by the Oneida Business
188 Committee. [1 O.C. 109.9-5(b)].
 - 189 ■ Emergency legislation remains in effect for a period of up to six (6) months,
190 with an opportunity for a one-time emergency law extension of up to six (6)
191 months. [1 O.C. 109.9-5(b)].
 - 192 ■ Adoption of these proposed emergency amendments conform with the requirements of
193 the Legislative Procedures Act.
 - 194 ■ *Boards, Committees, and Commissions Law.* The Boards Committees and Commissions law
195 governs boards, committees, and commissions of the Nation, including the procedures
196 regarding the appointment and election of persons to boards, committees and commissions,
197 creation of bylaws, maintenance of official records, compensation, and other items related to
198 boards, committees and commissions. [1 O.C. 105.1-1].
 - 199 ■ The Boards, Committees, and Commissions law provides that direct reports to the
200 Oneida Business Committee or General Manager, or are employees of the Nation’s
201 Internal Audit Department, Finance Administration, Law Office, Business Committee
202 Support Office, or Intergovernmental Affairs and Communications are ineligible to
203 serve on an appointed or elected boards, committee, or commission of the Nation. [1
204 O.C. 105.15-3].
 - 205 ■ The proposed amendments to the Law replace the Oneida Nation Emergency Planning
206 Committee with the Emergency Management Operations Team to eliminate any
207 conflict with section 105.15-3 of the Boards, Committees, and Commissions law.
208

209 SECTION 7. OTHER CONSIDERATIONS

- 210 A. *Deadline for Permanent Adoption of Legislation.* The emergency amendments to the Law will expire
211 on March 14, 2022. The emergency legislation may be renewed for an additional six (6) month period.
- 212 ■ *Conclusion:* The Legislative Operating Committee will need to determine if the adoption of these
213 amendments is necessary on a permanent basis, and if so, develop the permanent amendments to
214 this Law within the next six (6) to twelve (12) months.
- 215 B. *Fiscal Impact.* Under the Legislative Procedures Act, a fiscal impact statement is required for all
216 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
217 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
218 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete

219 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
220 completing the fiscal impact statement.

221 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
222 statement be completed.

223

224

DTitle 3. Health and Public Safety – Chapter 302
Yotlihokté Olihwá:ke
Matters that are concerning immediate attention
EMERGENCY MANAGEMENT

- | | |
|---|--|
| 302.1. Purpose and Policy | 302.6. Entity Cooperation |
| 302.2. Adoption, Amendment, Conflicts | 302.7. Public Health Emergencies |
| 302.3. Definitions | 302.8. Proclamation of an Emergency |
| 302.4. Emergency Management Department | 302.9. Emergency Core Decision Making Team |
| 302.5. Oneida Nation Emergency Planning Committee <u>Management Operations Team</u> | 302.10. Enforcement and Penalties |

302.1. Purpose and Policy

302.1-1. *Purpose.* The purpose of this law is to:

- (a) provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster;
- (b) provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;
- (c) establish the use of the National Incident Management System (NIMS); and
- (d) designate authority and responsibilities for public health preparedness.

302.1-2. *Policy.* It is the policy of the Nation to provide:

- (a) a description of the emergency management network of the Nation;
- (b) authorization for specialized activities to mitigate hazardous conditions and for the preparation of the Nation’s emergency response plans, as well as to address concerns related to isolation and/or quarantine orders, emergency care, and mutual aid; and
- (c) for all expenditures made in connection with such emergency management activities to be deemed specifically for the protection and benefit of the inhabitants, property, and environment of the Reservation.

302.2. Adoption, Amendment, Repeal

302.2-1. This law was adopted by the Oneida Business Committee by resolution BC-07-15-98-A ~~and~~₂ amended by resolution BC-12-20-06-G, BC-05-13-09-F, ~~and~~ BC-03-10-21-A~~2~~, ~~and~~ BC-~~2~~ -~~2~~ -~~2~~.

302.2-2. This law may be amended or repealed by the Oneida Business Committee ~~and~~/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

302.2-3. 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.

302.2-4. 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.

302.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

302.3. Definitions

302.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Biological agent” means an infectious disease or toxin that has the ability to adversely affect human health in a variety of ways, from mild allergic reactions to serious medical

- 39 conditions, and including death.
- 40 (b) “Communicable disease” means any disease transmitted from one person or animal to
- 41 another directly by contact with excreta or other discharges from the body, or indirectly via
- 42 substances or inanimate objects that may cause a public health emergency.
- 43 (c) “Community/Public Health Officer” means an agent of the Comprehensive Health
- 44 Division, or his or her designee(s), who is responsible for taking the appropriate actions in
- 45 order to prevent a public health emergency from occurring on the Reservation.
- 46 (d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division,
- 47 which is authorized to issue compulsory vaccinations, require isolation, and quarantine
- 48 individuals in order to protect the public health.
- 49 (e) “Director” means the Director of the Nation’s Emergency Management Department.
- 50 (f) “Emergency” means a situation that poses an immediate risk to health, life, safety,
- 51 property, or environment which requires urgent intervention to prevent further illness,
- 52 injury, death, or other worsening of the situation.
- 53 (g) “Emergency Management Network” means the entities, volunteers, consultants,
- 54 contractors, outside agencies, and any other resources the Nation may use to facilitate inter-
- 55 agency collaboration, identify and share resources, and better prepare for local incidents
- 56 and large-scale disasters.
- 57 (h) “Emergency Response Plan” means the plan established to coordinate mitigation,
- 58 preparedness, response, and recovery activities for all emergency or disaster situations
- 59 within the Reservation.
- 60 (i) “Entity” means any agency, board, committee, commission, or department of the
- 61 Nation.
- 62 (j) “Fair Market Value” means the everyday cost of a product in an ordinary market,
- 63 absent of a disaster.
- 64 (k) “Isolation” means the separation of persons or animals presumably or actually infected
- 65 with a communicable disease, or that are disease carriers, for the usual period of
- 66 communicability of that disease in such places and under such conditions as will prevent
- 67 the direct or indirect transmission of an infectious agent to susceptible people or to those
- 68 who may spread the agent to others.
- 69 (l) “Nation” means the Oneida Nation.
- 70 (m) “National Incident Management System” or “NIMS” means the system mandated by
- 71 Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that
- 72 provides a consistent nationwide approach for federal, state, local, and tribal governments
- 73 to work effectively and efficiently together to prepare for, prevent, respond to, and recover
- 74 from domestic incidents, regardless of cause, size, or complexity.
- 75 ~~(n) “Oneida Nation Emergency Planning Committee” means the committee that assists the~~
- 76 ~~Director in the implementation of this law.~~
- 77 ~~(n)~~ “Proclaim” means to announce officially and publicly.
- 78 ~~(p)~~ “Public Health Emergency” means the occurrence or imminent threat of an illness
- 79 or health condition which:
- 80 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a
- 81 biological agent; and
- 82 (2) poses a high probability of any of the following:
- 83 (A) a large number of deaths or serious or long-term disability among

84 humans; or
85 (B) widespread exposure to a biological, chemical, or radiological agent
86 that creates a significant risk of substantial future harm to a large number of
87 people.

88 (ep) “Quarantine” means the limitation of freedom of movement of persons or animals
89 that have been exposed to a communicable disease or chemical, biological, or radiological
90 agent, for a period of time equal to the longest usual incubation period of the disease or
91 until there is no risk of spreading the chemical, biological, or radiological agent. The
92 limitation of movement shall be in such manner as to prevent the spread of a communicable
93 disease or chemical, biological, or radiological agent.

94 (fq) “Reservation” means all land within the exterior boundaries of the Reservation of the
95 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and
96 any lands added thereto pursuant to federal law.

97 (sr) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
98 judicial system that was established by Oneida General Tribal Council resolution GTC-01-
99 07-13-B, and then later authorized to administer the judicial authorities and responsibilities
100 of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

101 (ts) “Vital resources” means food, water, equipment, sand, wood, or other materials
102 obtained for the protection of life, property, and/or the environment during a proclaimed
103 emergency.
104

105 **302.4. Emergency Management Department**

106 302.4-1. The Emergency Management Department shall be responsible for planning and
107 coordinating the response to a disaster or emergency that occurs within the boundaries of the
108 Reservation.

109 302.4-2. *Authority of the Director.* The Director shall be responsible for coordinating and
110 planning the operational response to an emergency and is hereby empowered to:

- 111 (a) organize and coordinate efforts of the emergency management network of the Nation;
- 112 (b) implement the Emergency Response Plan as adopted by the Oneida Business
113 Committee;
- 114 (c) facilitate coordination and cooperation between entities and resolve questions that may
115 arise among them;
- 116 (d) incorporate the HSPD 5 which requires all federal, state, local, and tribal governments
117 to administer the best practices contained in the NIMS;
- 118 (e) coordinate the development and implementation of the NIMS within the Nation;
- 119 (f) ensure that the following occurs:
 - 120 (1) an Emergency Response Plan is developed and maintained, and includes
121 training provisions for applicable personnel;
 - 122 (2) emergency resources, equipment, and communications systems are developed,
123 procured, supplied, inventoried, and accounted for;
- 124 (g) establish the line of authority as recorded in the Emergency Response Plan as adopted
125 by the Oneida Business Committee; and
- 126 (h) enter into mutual aid and service agreements with tribal, local, state, and federal
127 governments, subject to Oneida Business Committee approval.

128 302.4-3. *Action when an Emergency is Proclaimed.* In addition, in the event of a proclamation of
129 an emergency on the Reservation, the Director is hereby empowered:

Draft 1 (Redline to Last Permanent)
2022 10 05

(a) to obtain vital resources and to bind the Nation for the fair market value thereof, upon approval of the Emergency Management purchasing agent, who is identified in the Emergency Response Plan. If a person or business refuses to provide the resource(s) required, the Director may commandeer resources for public use and bind the Nation for the fair market value thereof. In the event the purchasing agent is unavailable, the chain of command, as approved by the Oneida Business Committee, shall be followed.

(b) to require emergency activities of as many members of the Nation and/or employees as deemed necessary.

(c) to execute all of the ordinary powers of the Director, all of the special powers conferred by this law or by resolution adopted pursuant thereto, all powers conferred on the Director by any agreement approved by the Oneida Business Committee, and to exercise complete emergency authority over the Reservation.

(d) to coordinate with tribal, federal, state, and local authorities.

302.5. ~~Oneida Nation Emergency Planning Committee~~ Management Operations Team

302.5-1. ~~The Oneida Nation~~ Establishment and Composition. There is hereby established an Emergency ~~Planning Committee~~ Management Operations Team which shall consist of representatives from entities ~~and a community representative of the Nation~~ as identified ~~in the Oneida Nation Emergency Planning Committee bylaws as approved by the Oneida Business Committee.~~ Director.

302.5-2. Purpose. ~~The Oneida Nation~~ Emergency ~~Planning Committee~~ Management Operations Team shall meet as necessary ~~to, as determined by the Director, for the following purposes:~~

(a) assist the Director in drafting and maintaining the Emergency Response Plan; and

(b) assist the Director in ~~302.5-3. At the request of the Director, the Oneida Nation Emergency Planning Committee shall provide assistance to the Director in the implementation of the provisions of this law or any plan issued thereunder.~~

302.5-3. Expectations. Members of the Emergency Management Operations Team shall attend meetings, or send a designee in their absence, and comply with any training requirements set forth by the Director.

302.6. Entity Cooperation

302.6-1. All entities shall comply with reasonable requests from the Director relating to emergency planning, emergency operations, and federal mandate compliance.

302.6-2. The Nation may implement more strict policies or requirements than those issued by the Community/Public Health Officer.

302.7. Public Health Emergencies

302.7-1. In order to prevent a public health emergency, the Director and the Community/Public Health Officer shall take action to limit the spread of any communicable disease, in accordance with this law.

302.7-2. *Investigation of Communicable Disease.* If the Community/Public Health Officer suspects or is informed of the existence of any communicable disease, the Community/Public Health Officer shall investigate and make or cause examinations to be made, as are deemed necessary.

302.7-3. *Quarantinable Diseases.* The Community/Public Health Officer shall provide a list of quarantinable diseases specified in a resolution to be adopted by the Oneida Business Committee.

Draft 1 (Redline to Last Permanent)
2022 10 05

176 302.7-4. *Authority of the Community/Public Health Officer.* The Community/Public Health
177 Officer shall act as necessary to protect the public including, but not limited to, the following
178 actions:

179 (a) Request the Director to take the necessary steps to have a public health emergency
180 proclaimed;

181 (b) Quarantine, isolate, or take other communicable disease control measures upon an
182 individual(s); and

183 (c) Issue any mandate, order, and/or require restrictions which may limit the spread of any
184 communicable disease to any individual, business, or the general population of the
185 Reservation.

186 302.7-5. *Quarantine and Isolation.* The Community/Public Health Officer shall immediately
187 quarantine, isolate, and/or take other communicable disease control measures upon an individual
188 if the Community/Public Health Officer receives a diagnostic report from a physician or a written
189 or verbal notification from an individual or his or her parent or caretaker that gives the
190 Community/Public Health Officer a reasonable belief that the individual has a communicable
191 disease that is likely to cause a public health emergency.

192 (a) If an individual is infected with a communicable disease and the Community/Public
193 Health Officer determines it is necessary to limit contact with the individual, all persons
194 may be forbidden from being in direct contact with the infected individual, except for those
195 persons having a special written permit from the Community/Public Health Officer.

196 (b) Any individual, including an authorized individual, who enters an isolation or
197 quarantine premises may be subject to isolation or quarantine under this law.

198 (c) When the Community/Public Health Officer deems it necessary that an individual be
199 quarantined, isolated, or otherwise restricted in a separate place, the Community/Public
200 Health Officer shall have that individual removed to such a designated place, if it can be
201 done without danger to the individual's health.

202 302.7-6. *Action when a Public Health Emergency is Proclaimed.* In addition, when a public health
203 emergency is proclaimed, the Community/Public Health Officer may do all of the following, as
204 necessary:

205 (a) organize the vaccination of individuals;

206 (1) The following types of individuals shall not be subject to a vaccination:

207 (A) an individual who the vaccination is reasonably likely to lead to serious
208 harm to the individual; and

209 (B) an individual, for reason of religion or conscience, refuses to obtain the
210 vaccination.

211 (b) isolate or quarantine individuals, including those who are unable or unwilling to receive
212 a vaccination; and

213 (c) prevent any individual, except for those individuals authorized by the
214 Community/Public Health Officer, from entering an isolation or quarantine premises.

215 302.7-7. The Oneida Police Department shall take enforcement action when necessary and work
216 with the Community/Public Health Officer to execute the Community/Public Health Officer's
217 orders and properly guard any place if quarantine, isolation, or other restrictions on communicable
218 disease are violated or intent to violate becomes apparent.

219 302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected
220 individual shall be charged against the individual or whoever is liable for the individual's care and
221 support.

Draft 1 (Redline to Last Permanent)
2022 10 05

222

223 **302.8. Proclamation of an Emergency**

224 302.8-1. *Proclamation of an Emergency.* The Oneida Business Committee shall be responsible
225 for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or
226 presidential declaration.

227 (a) The Director may request that the Oneida Business Committee proclaim the existence
228 of an emergency. The Oneida Business Committee may proclaim the existence of an
229 emergency without a request from the Director, if warranted.

230 (b) In the event the Oneida Business Committee is unable to proclaim or ratify the
231 existence of an emergency, the Director may proclaim an emergency which shall be in
232 effect until such time the Oneida Business Committee can officially ratify this declaration.

233 302.8-2. No proclamation of an emergency by the Oneida Business Committee or the Director
234 may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the
235 Oneida Business Committee.

236 302.8-3. *Management Network.* The emergency management network of the Reservation shall
237 be as specified in the Emergency Response Plan, as adopted by the Oneida Business Committee.

238 302.8-4. *Emergency Briefings.* Within forty-eight (48) hours of an emergency, the Director shall
239 prepare, or shall work in conjunction with the appropriate entity to prepare, an emergency briefing
240 to be presented to the Oneida Business Committee regarding the status of the emergency, actions
241 taken to address the emergency, and the activation of the Emergency Response Plan. The Oneida
242 Business Committee may direct the Director to provide additional emergency briefings.

243 ~~302.8-5.~~ *After-Action Preliminary Emergency Assessment Report.* After an emergency has
244 subsided, the Director shall prepare, or shall work in conjunction with the appropriate entity to
245 prepare, an after-action preliminary emergency assessment report to be presented to the Oneida
246 Business Committee, any interested entity, and the public. This report shall be presented to the
247 required parties no later than sixty (60) thirty (30) days after the emergency has subsided, unless an
248 extension is granted by the Oneida Business Committee.

249 *After-Action Report.* After an emergency has subsided, the Director shall prepare, or
250 shall work in conjunction with the appropriate entity to prepare, an after-action report to be
251 presented to the Oneida Business Committee, any interested entity, and the public. This report
252 shall be presented to the required parties no later than ninety (90) days after the emergency has
253 subsided, unless an extension is granted by the Oneida Business Committee.

254 ~~302.8-7.~~ ~~302.8-5.~~ During a proclaimed emergency, the Conservation Department shall be
255 responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock.
256 The Conservation Department may delegate this responsibility to a contracted agency.

257

258 **302.9. Emergency Core Decision Making Team**

259 302.9-1. *Emergency Core Decision Making Team.* Upon the proclamation of an emergency under
260 this law, the Oneida Business Committee may establish an Emergency Core Decision Making
261 Team through the adoption of a motion. The motion shall identify the positions of the Nation which
262 shall make up the members of the Emergency Core Decision Making Team based on the type and
263 severity of emergency the Nation is experiencing.

264 302.9-2. *Delegation of Authority.* The Emergency Core Decision Making Team shall have
265 emergency authority to take the following actions:

266 (a) Notwithstanding any requirements of the Legislative Procedures Act, declare
267 exceptions to the Nation's laws during the emergency period which will be of immediate

Draft 1 (Redline to Last Permanent)

2022 10 05

268 impact for the purposes of protecting the health, safety, and general welfare of the Nation's
 269 community, members, and employees; and

270 (b) Notwithstanding any requirements in any policy, procedure, regulation, or standard
 271 operating procedures, declare exceptions to any policy, procedure, regulation, or standard
 272 operating procedure during the emergency period which will be of immediate impact for
 273 the purposes of protecting the health, safety, and general welfare of the Nation's
 274 community, members, and employees.

275 302.9-3. *Declarations.* All declarations made by the Emergency Core Decision Making Team
 276 shall:

- 277 (a) be written on the Nation's letterhead;
- 278 (b) provide the date the declaration was issued;
- 279 (c) contain a clear statement of the directives;
- 280 (d) provide the date the directive shall go into effect;
- 281 (e) be signed by the Oneida Business Committee Chairperson, or Vice Chairperson in the
 282 Chairperson's absence; and
- 283 (f) be posted on the Nation's website.

284 302.9-4. *Duration of Authority for Exceptions Declared by the Emergency Core Decision Making*
 285 *Team.* Any declaration made under the authority granted in this section shall be effective upon
 286 the date declared by the Emergency Core Decision Making Team and shall be effective for the
 287 duration of any proclaimed emergency, or for a shorter time period if identified.

288 302.9-5. *Notification to the Oneida Business Committee.* Within twenty-four (24) hours of a
 289 declaration being made, the Emergency Core Decision Making Team shall provide notification of
 290 the declaration to the Oneida Business Committee.

291 302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or
 292 emergency action taken by the Emergency Core Decision Making Team.

293

294 **302.10. Enforcement and Penalties**

295 302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct,
 296 hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued
 297 thereunder, whether or not an emergency has been proclaimed.

298 302.10-2. *Citations.* An Oneida Police Department officer may issue a citation to any person who
 299 violates a provision of this law.

300 (a) A citation for a violation of this law shall be processed in accordance with the procedure
 301 contained in the Nation's laws and policies governing citations.

302 (b) The Oneida Business Committee shall adopt through resolution a citation schedule
 303 which sets forth specific fine amounts for violations of this law.

304 (c) The Trial Court shall have jurisdiction over any action brought under this law.

305 302.10-3. *Disciplinary Action.* An employee of the Nation who violates this law during their work
 306 hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action
 307 in accordance with the Nation's laws and policies governing employment.

308 (a) An employee of the Nation who is disciplined under this law may appeal the
 309 disciplinary action in accordance with the Nation's laws and policies governing
 310 employment.

311

312 *End.*

313

Draft 1 (Redline to Last Permanent)
2022 10 05

- 314 Adopted - BC-07-15-98-A
- 315 Amended - BC-12-20-06-G
- 316 Emergency Amended – BC-04-30-09-A (Influenza A (H1N1))
- 317 Amended - BC-05-13-09-F
- 318 Emergency Amended – BC-03-17-20-E (COVID-19)
- 319 Extension of Emergency – BC-08-26-20-A
- 320 Amended – BC-03-10-21-A
- 321 Emergency Amended – BC-09-14-22-B
- 322 Amended – BC- - - -

Title 3. Health and Public Safety – Chapter 302
Yotlihokté Olihwá:ke
Matters that are concerning immediate attention
EMERGENCY MANAGEMENT

302.1. Purpose and Policy
302.2. Adoption, Amendment, Conflicts
302.3. Definitions
302.4. Emergency Management Department
302.5. Emergency Management Operations Team

302.6. Entity Cooperation
302.7. Public Health Emergencies
302.8. Proclamation of an Emergency
302.9. Emergency Core Decision Making Team
302.10. Enforcement and Penalties

302.1. Purpose and Policy

302.1-1. *Purpose.* The purpose of this law is to:

- (a) provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster;
- (b) provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;
- (c) establish the use of the National Incident Management System (NIMS); and
- (d) designate authority and responsibilities for public health preparedness.

302.1-2. *Policy.* It is the policy of the Nation to provide:

- (a) a description of the emergency management network of the Nation;
- (b) authorization for specialized activities to mitigate hazardous conditions and for the preparation of the Nation’s emergency response plans, as well as to address concerns related to isolation and/or quarantine orders, emergency care, and mutual aid; and
- (c) for all expenditures made in connection with such emergency management activities to be deemed specifically for the protection and benefit of the inhabitants, property, and environment of the Reservation.

302.2. Adoption, Amendment, Repeal

302.2-1. This law was adopted by the Oneida Business Committee by resolution BC-07-15-98-A, amended by resolution BC-12-20-06-G, BC-05-13-09-F, BC-03-10-21-A, and BC-__-__-__-__.

302.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

302.2-3. 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.

302.2-4. 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.

302.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

302.3. Definitions

302.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Biological agent” means an infectious disease or toxin that has the ability to adversely affect human health in a variety of ways, from mild allergic reactions to serious medical conditions, and including death.

Draft 1
2022 10 05

- 39 (b) “Communicable disease” means any disease transmitted from one person or animal to
40 another directly by contact with excreta or other discharges from the body, or indirectly via
41 substances or inanimate objects that may cause a public health emergency.
- 42 (c) “Community/Public Health Officer” means an agent of the Comprehensive Health
43 Division, or his or her designee(s), who is responsible for taking the appropriate actions in
44 order to prevent a public health emergency from occurring on the Reservation.
- 45 (d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division,
46 which is authorized to issue compulsory vaccinations, require isolation, and quarantine
47 individuals in order to protect the public health.
- 48 (e) “Director” means the Director of the Nation’s Emergency Management Department.
- 49 (f) “Emergency” means a situation that poses an immediate risk to health, life, safety,
50 property, or environment which requires urgent intervention to prevent further illness,
51 injury, death, or other worsening of the situation.
- 52 (g) “Emergency Management Network” means the entities, volunteers, consultants,
53 contractors, outside agencies, and any other resources the Nation may use to facilitate inter-
54 agency collaboration, identify and share resources, and better prepare for local incidents
55 and large-scale disasters.
- 56 (h) “Emergency Response Plan” means the plan established to coordinate mitigation,
57 preparedness, response, and recovery activities for all emergency or disaster situations
58 within the Reservation.
- 59 (i) “Entity” means any agency, board, committee, commission, or department of the
60 Nation.
- 61 (j) “Fair Market Value” means the everyday cost of a product in an ordinary market,
62 absent of a disaster.
- 63 (k) “Isolation” means the separation of persons or animals presumably or actually infected
64 with a communicable disease, or that are disease carriers, for the usual period of
65 communicability of that disease in such places and under such conditions as will prevent
66 the direct or indirect transmission of an infectious agent to susceptible people or to those
67 who may spread the agent to others.
- 68 (l) “Nation” means the Oneida Nation.
- 69 (m) “National Incident Management System” or “NIMS” means the system mandated by
70 Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that
71 provides a consistent nationwide approach for federal, state, local, and tribal governments
72 to work effectively and efficiently together to prepare for, prevent, respond to, and recover
73 from domestic incidents, regardless of cause, size, or complexity.
- 74 (n) “Proclaim” means to announce officially and publicly.
- 75 (o) “Public Health Emergency” means the occurrence or imminent threat of an illness or
76 health condition which:
- 77 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a
78 biological agent; and
- 79 (2) poses a high probability of any of the following:
- 80 (A) a large number of deaths or serious or long-term disability among
81 humans; or
- 82 (B) widespread exposure to a biological, chemical, or radiological agent
83 that creates a significant risk of substantial future harm to a large number of

Draft 1
2022 10 05

- 84 people.
- 85 (p) “Quarantine” means the limitation of freedom of movement of persons or animals that
86 have been exposed to a communicable disease or chemical, biological, or radiological
87 agent, for a period of time equal to the longest usual incubation period of the disease or
88 until there is no risk of spreading the chemical, biological, or radiological agent. The
89 limitation of movement shall be in such manner as to prevent the spread of a communicable
90 disease or chemical, biological, or radiological agent.
- 91 (q) “Reservation” means all land within the exterior boundaries of the Reservation of the
92 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and
93 any lands added thereto pursuant to federal law.
- 94 (r) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
95 judicial system that was established by Oneida General Tribal Council resolution GTC-01-
96 07-13-B, and then later authorized to administer the judicial authorities and responsibilities
97 of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.
- 98 (s) “Vital resources” means food, water, equipment, sand, wood, or other materials
99 obtained for the protection of life, property, and/or the environment during a proclaimed
100 emergency.

101 **302.4. Emergency Management Department**

102 302.4-1. The Emergency Management Department shall be responsible for planning and
103 coordinating the response to a disaster or emergency that occurs within the boundaries of the
104 Reservation.

105 302.4-2. *Authority of the Director.* The Director shall be responsible for coordinating and
106 planning the operational response to an emergency and is hereby empowered to:

- 107 (a) organize and coordinate efforts of the emergency management network of the Nation;
108 (b) implement the Emergency Response Plan as adopted by the Oneida Business
109 Committee;
110 (c) facilitate coordination and cooperation between entities and resolve questions that may
111 arise among them;
112 (d) incorporate the HSPD 5 which requires all federal, state, local, and tribal governments
113 to administer the best practices contained in the NIMS;
114 (e) coordinate the development and implementation of the NIMS within the Nation;
115 (f) ensure that the following occurs:
116 (1) an Emergency Response Plan is developed and maintained, and includes
117 training provisions for applicable personnel;
118 (2) emergency resources, equipment, and communications systems are developed,
119 procured, supplied, inventoried, and accounted for;
120 (g) establish the line of authority as recorded in the Emergency Response Plan as adopted
121 by the Oneida Business Committee; and
122 (h) enter into mutual aid and service agreements with tribal, local, state, and federal
123 governments, subject to Oneida Business Committee approval.

124 302.4-3. *Action when an Emergency is Proclaimed.* In addition, in the event of a proclamation of
125 an emergency on the Reservation, the Director is hereby empowered:

- 126 (a) to obtain vital resources and to bind the Nation for the fair market value thereof, upon
127 approval of the Emergency Management purchasing agent, who is identified in the
128 Emergency Response Plan. If a person or business refuses to provide the resource(s)
129

Draft 1
2022 10 05

130 required, the Director may commandeer resources for public use and bind the Nation for
131 the fair market value thereof. In the event the purchasing agent is unavailable, the chain of
132 command, as approved by the Oneida Business Committee, shall be followed.

133 (b) to require emergency activities of as many members of the Nation and/or employees
134 as deemed necessary.

135 (c) to execute all of the ordinary powers of the Director, all of the special powers conferred
136 by this law or by resolution adopted pursuant thereto, all powers conferred on the Director
137 by any agreement approved by the Oneida Business Committee, and to exercise complete
138 emergency authority over the Reservation.

139 (d) to coordinate with tribal, federal, state, and local authorities.
140

141 **302.5. Emergency Management Operations Team**

142 302.5-1. *Establishment and Composition.* There is hereby established an Emergency Management
143 Operations Team which shall consist of representatives from entities of the Nation as identified by
144 the Director.

145 302.5-2. *Purpose.* The Emergency Management Operations Team shall meet as necessary, as
146 determined by the Director, for the following purposes:

147 (a) assist the Director in drafting and maintaining the Emergency Response Plan; and

148 (b) assist the Director in the implementation of the provisions of this law or any plan issued
149 thereunder.

150 302.5-3. *Expectations.* Members of the Emergency Management Operations Team shall attend
151 meetings, or send a designee in their absence, and comply with any training requirements set forth
152 by the Director.
153

154 **302.6. Entity Cooperation**

155 302.6-1. All entities shall comply with reasonable requests from the Director relating to
156 emergency planning, emergency operations, and federal mandate compliance.

157 302.6-2. The Nation may implement more strict policies or requirements than those issued by the
158 Community/Public Health Officer.
159

160 **302.7. Public Health Emergencies**

161 302.7-1. In order to prevent a public health emergency, the Director and the Community/Public
162 Health Officer shall take action to limit the spread of any communicable disease, in accordance
163 with this law.

164 302.7-2. *Investigation of Communicable Disease.* If the Community/Public Health Officer
165 suspects or is informed of the existence of any communicable disease, the Community/Public
166 Health Officer shall investigate and make or cause examinations to be made, as are deemed
167 necessary.

168 302.7-3. *Quarantinable Diseases.* The Community/Public Health Officer shall provide a list of
169 quarantinable diseases specified in a resolution to be adopted by the Oneida Business Committee.

170 302.7-4. *Authority of the Community/Public Health Officer.* The Community/Public Health
171 Officer shall act as necessary to protect the public including, but not limited to, the following
172 actions:

173 (a) Request the Director to take the necessary steps to have a public health emergency
174 proclaimed;

Draft 1
2022 10 05

- 175 (b) Quarantine, isolate, or take other communicable disease control measures upon an
176 individual(s); and
177 (c) Issue any mandate, order, and/or require restrictions which may limit the spread of any
178 communicable disease to any individual, business, or the general population of the
179 Reservation.

180 302.7-5. *Quarantine and Isolation.* The Community/Public Health Officer shall immediately
181 quarantine, isolate, and/or take other communicable disease control measures upon an individual
182 if the Community/Public Health Officer receives a diagnostic report from a physician or a written
183 or verbal notification from an individual or his or her parent or caretaker that gives the
184 Community/Public Health Officer a reasonable belief that the individual has a communicable
185 disease that is likely to cause a public health emergency.

186 (a) If an individual is infected with a communicable disease and the Community/Public
187 Health Officer determines it is necessary to limit contact with the individual, all persons
188 may be forbidden from being in direct contact with the infected individual, except for those
189 persons having a special written permit from the Community/Public Health Officer.

190 (b) Any individual, including an authorized individual, who enters an isolation or
191 quarantine premises may be subject to isolation or quarantine under this law.

192 (c) When the Community/Public Health Officer deems it necessary that an individual be
193 quarantined, isolated, or otherwise restricted in a separate place, the Community/Public
194 Health Officer shall have that individual removed to such a designated place, if it can be
195 done without danger to the individual's health.

196 302.7-6. *Action when a Public Health Emergency is Proclaimed.* In addition, when a public health
197 emergency is proclaimed, the Community/Public Health Officer may do all of the following, as
198 necessary:

199 (a) organize the vaccination of individuals;

200 (1) The following types of individuals shall not be subject to a vaccination:

201 (A) an individual who the vaccination is reasonably likely to lead to serious
202 harm to the individual; and

203 (B) an individual, for reason of religion or conscience, refuses to obtain the
204 vaccination.

205 (b) isolate or quarantine individuals, including those who are unable or unwilling to receive
206 a vaccination; and

207 (c) prevent any individual, except for those individuals authorized by the
208 Community/Public Health Officer, from entering an isolation or quarantine premises.

209 302.7-7. The Oneida Police Department shall take enforcement action when necessary and work
210 with the Community/Public Health Officer to execute the Community/Public Health Officer's
211 orders and properly guard any place if quarantine, isolation, or other restrictions on communicable
212 disease are violated or intent to violate becomes apparent.

213 302.7-8. Expenses for necessary medical care, food, and other articles needed for an infected
214 individual shall be charged against the individual or whoever is liable for the individual's care and
215 support.

216

217 **302.8. Proclamation of an Emergency**

218 302.8-1. *Proclamation of an Emergency.* The Oneida Business Committee shall be responsible
219 for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or
220 presidential declaration.

Draft 1
2022 10 05

221 (a) The Director may request that the Oneida Business Committee proclaim the existence
222 of an emergency. The Oneida Business Committee may proclaim the existence of an
223 emergency without a request from the Director, if warranted.

224 (b) In the event the Oneida Business Committee is unable to proclaim or ratify the
225 existence of an emergency, the Director may proclaim an emergency which shall be in
226 effect until such time the Oneida Business Committee can officially ratify this declaration.

227 302.8-2. No proclamation of an emergency by the Oneida Business Committee or the Director
228 may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the
229 Oneida Business Committee.

230 302.8-3. *Management Network.* The emergency management network of the Reservation shall
231 be as specified in the Emergency Response Plan, as adopted by the Oneida Business Committee.

232 302.8-4. *Emergency Briefings.* Within forty-eight (48) hours of an emergency, the Director shall
233 prepare, or shall work in conjunction with the appropriate entity to prepare, an emergency briefing
234 to be presented to the Oneida Business Committee regarding the status of the emergency, actions
235 taken to address the emergency, and the activation of the Emergency Response Plan. The Oneida
236 Business Committee may direct the Director to provide additional emergency briefings.

237 302.8-5. *Preliminary Emergency Assessment Report.* After an emergency has subsided, the
238 Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, a
239 preliminary emergency assessment report to be presented to the Oneida Business Committee, any
240 interested entity, and the public. This report shall be presented to the required parties no later than
241 thirty (30) days after the emergency has subsided, unless an extension is granted by the Oneida
242 Business Committee.

243 302.8-6. *After-Action Report.* After an emergency has subsided, the Director shall prepare, or
244 shall work in conjunction with the appropriate entity to prepare, an after-action report to be
245 presented to the Oneida Business Committee, any interested entity, and the public. This report
246 shall be presented to the required parties no later than ninety (90) days after the emergency has
247 subsided, unless an extension is granted by the Oneida Business Committee.

248 302.8-7. During a proclaimed emergency, the Conservation Department shall be responsible for
249 the care, disposal, and sheltering of all abandoned domestic animals and livestock. The
250 Conservation Department may delegate this responsibility to a contracted agency.

251
252 **302.9. Emergency Core Decision Making Team**

253 302.9-1. *Emergency Core Decision Making Team.* Upon the proclamation of an emergency under
254 this law, the Oneida Business Committee may establish an Emergency Core Decision Making
255 Team through the adoption of a motion. The motion shall identify the positions of the Nation which
256 shall make up the members of the Emergency Core Decision Making Team based on the type and
257 severity of emergency the Nation is experiencing.

258 302.9-2. *Delegation of Authority.* The Emergency Core Decision Making Team shall have
259 emergency authority to take the following actions:

260 (a) Notwithstanding any requirements of the Legislative Procedures Act, declare
261 exceptions to the Nation's laws during the emergency period which will be of immediate
262 impact for the purposes of protecting the health, safety, and general welfare of the Nation's
263 community, members, and employees; and

264 (b) Notwithstanding any requirements in any policy, procedure, regulation, or standard
265 operating procedures, declare exceptions to any policy, procedure, regulation, or standard
266 operating procedure during the emergency period which will be of immediate impact for

Draft 1
2022 10 05

267 the purposes of protecting the health, safety, and general welfare of the Nation's
268 community, members, and employees.

269 302.9-3. *Declarations*. All declarations made by the Emergency Core Decision Making Team
270 shall:

- 271 (a) be written on the Nation's letterhead;
- 272 (b) provide the date the declaration was issued;
- 273 (c) contain a clear statement of the directives;
- 274 (d) provide the date the directive shall go into effect;
- 275 (e) be signed by the Oneida Business Committee Chairperson, or Vice Chairperson in the
276 Chairperson's absence; and
- 277 (f) be posted on the Nation's website.

278 302.9-4. *Duration of Authority for Exceptions Declared by the Emergency Core Decision Making*
279 *Team*. Any declaration made under the authority granted in this section shall be effective upon
280 the date declared by the Emergency Core Decision Making Team and shall be effective for the
281 duration of any proclaimed emergency, or for a shorter time period if identified.

282 302.9-5. *Notification to the Oneida Business Committee*. Within twenty-four (24) hours of a
283 declaration being made, the Emergency Core Decision Making Team shall provide notification of
284 the declaration to the Oneida Business Committee.

285 302.9-6. The Oneida Business Committee may modify, extend, or repeal any declaration or
286 emergency action taken by the Emergency Core Decision Making Team.

287

288 **302.10. Enforcement and Penalties**

289 302.10-1. It shall be a violation of this law for any person to not comply with or willfully obstruct,
290 hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued
291 thereunder, whether or not an emergency has been proclaimed.

292 302.10-2. *Citations*. An Oneida Police Department officer may issue a citation to any person who
293 violates a provision of this law.

294 (a) A citation for a violation of this law shall be processed in accordance with the procedure
295 contained in the Nation's laws and policies governing citations.

296 (b) The Oneida Business Committee shall adopt through resolution a citation schedule
297 which sets forth specific fine amounts for violations of this law.

298 (c) The Trial Court shall have jurisdiction over any action brought under this law.

299 302.10-3. *Disciplinary Action*. An employee of the Nation who violates this law during their work
300 hours or who refuses to follow the Emergency Response Plan may be subject to disciplinary action
301 in accordance with the Nation's laws and policies governing employment.

302 (a) An employee of the Nation who is disciplined under this law may appeal the
303 disciplinary action in accordance with the Nation's laws and policies governing
304 employment.

305

306 *End.*

307

308 Adopted - BC-07-15-98-A

309 Amended - BC-12-20-06-G

310 Emergency Amended – BC-04-30-09-A (Influenza A (H1N1))

311 Amended - BC-05-13-09-F

312 Emergency Amended – BC-03-17-20-E (COVID-19)

313 Extension of Emergency – BC-08-26-20-A

Draft 1
2022 10 05

314 Amended – BC-03-10-21-A
315 Emergency Amended – BC-09-14-22-B
316 Amended – BC-__-__-__-__

October 20 2022 Legislative Operating Committee E-Poll Emergency Amendments to the Budget and Finances Law

E-POLL REQUEST: Emergency Amendments to the Budget and Finances Law

LOC
To: David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Jennifer A. Webster; Ethel M. Cornelius
Cc: Clorissa N. Santiago; Rhiannon R. Metoxen; Kristal E. Hill

Reply Reply All Forward ...
Thu 10/20/2022 10:05 AM

Vote by clicking Vote in the Respond group above.
This message was sent with High importance.

2022 10 20 Budget and Finances Law Emergency Amendments Adoption Packet.pdf
1 MB

Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the Budget and Finances law emergency amendments adoption materials.

EXECUTIVE SUMMARY

Emergency amendments to the Budget and Finances law are being sought to address the adoption of the Nation's Fiscal Year 2023 (FY23) budget. The Budget and Finances law sets forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation's membership. [1 O.C. 121.1-1].

The proposed emergency amendments to the Budget and Finances law will:

- Clarify that the Oneida Business Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. [1 O.C. 121.5-4(c)]; and
- Remove the provision which only allows a continuing budget resolution to remain in effect for a maximum of three (3) months. [1 O.C. 121.5-47(e)(1)].

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

The emergency adoption of amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to ensure that the Oneida Business Committee has an opportunity to approve the final draft budget, and the budget to subsequently be adopted, prior to the expiration of the current continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*.

The observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest since the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the current continuing budget resolution as adopted through resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, does not expire on December 31, 2022, prior to the final approval of the budget by the Oneida Business Committee, and subsequent adoption of the budget.

The adoption of the emergency amendments to the Budget and Finances law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendment to the Budget and Finances law will remain effective for six (6) months. The Legislative Procedures Act provides the possibility to extend the emergency amendment for an additional six (6) months, or until the emergency amendment expires or is permanently adopted. [1 O.C. 109.9-5(b)].

Attached to this e-poll please find the following materials:

- Emergency adoption memo;
- Resolution, *Emergency Amendments to the Budget and Finances Law*;
- Statement of effect;
- Legislative analysis; and
- Budget and Finances law amendments (Redline Draft); and
- Budget and Finances law amendments (Clean).

The LOC is now being asked to approve by e-poll the Budget and Finances law emergency amendments adoption packet and forward to the Oneida Business Committee for consideration.

An e-poll is necessary for this matter because the next Legislative Operating Committee meeting is not until November 2, 2022, and it is intended that these materials be included on the agenda for the October 26, 2022, Oneida Business Committee meeting.

REQUESTED ACTION

- Approve the Budget and Finances law emergency amendments adoption packet and forward to the Oneida Business Committee for consideration.

DEADLINE FOR RESPONSE

October 20, 2022 at 1:30 p.m.

All supporting documentation has been attached to this email for your convenience.



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

E-POLL RESULTS:

This e-poll was approved by Kirby Metoxen, Marie Cornelius, Jennifer Webster, David P. Jordan. Daniel Guzman King did not provide a response.

RE: E-POLL REQUEST: Emergency Amendments to the Budget and Finances Law



Kirby W. Metoxen

To LOC; David P. Jordan; Daniel P. Guzman; Jennifer A. Webster; Ethel M. Cornelius
Cc Clorissa N. Leeman; Rhiannon R. Metoxen; Kristal E. Hill

Reply Reply All Forward

Thu 10/20/2022 10:21 AM

Approve

Kirby Metoxen

RE: E-POLL REQUEST: Emergency Amendments to the Budget and Finances Law



Ethel M. Cornelius

To LOC; David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Jennifer A. Webster
Cc Clorissa N. Leeman; Rhiannon R. Metoxen; Kristal E. Hill

Reply Reply All Forward

Thu 10/20/2022 10:21 AM

Support.

RE: E-POLL REQUEST: Emergency Amendments to the Budget and Finances Law



Jennifer A. Webster

To LOC; David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Ethel M. Cornelius
Cc Clorissa N. Leeman; Rhiannon R. Metoxen; Kristal E. Hill

Reply Reply All Forward

Thu 10/20/2022 10:22 AM

Approve,
Jenny

RE: E-POLL REQUEST: Emergency Amendments to the Budget and Finances Law



David P. Jordan


To LOC; Daniel P. Guzman; Kirby W. Metoxen; Jennifer A. Webster; Ethel M. Cornelius; David P. Jordan
Cc Clorissa N. Leeman; Rhiannon R. Metoxen; Kristal E. Hill

Reply Reply All Forward

Thu 10/20/2022 10:26 AM

Support



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: October 26, 2022
RE: Adoption of Emergency Amendments to the Budget and Finances Law

Please find the following attached backup documentation for your consideration of the adoption of emergency amendments to the Budget and Finances law:

1. Resolution: Emergency Amendments to the Budget and Finances Law
2. Statement of Effect: Emergency Amendments to the Budget and Finances Law
3. Budget and Finances Law Emergency Amendments Legislative Analysis
4. Budget and Finances Law Emergency Amendments Draft (Redline)
5. Budget and Finances Law Emergency Amendments Draft (Clean)

Overview

Emergency amendments to the Budget and Finances law are being sought to address the adoption of the Nation's Fiscal Year 2023 (FY23) budget. The Budget and Finances law sets forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation's membership. [1 O.C. 121.1-1].

During the October 18, 2022, work session the Oneida Business Committee discussed the processing of the FY23 budget. The processing and adoption of the FY23 budget is currently delayed. Issues identified for the delayed processing of the FY23 budget include:

- delayed start of the budget process due to compensation studies;
- expiration of the continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, on December 31, 2022 and the requirement that the budget be adopted by that date in accordance with section 121.5-4(e) of the Budget and Finances law;
- medical leave of the Treasurer and Assistant Chief Financial Officer; and
- the impending leave of the Chief Financial Officer in December.

The Chief Financial Officer presented and discussed four (4) options on how to move forward. One (1) option was agreed to by consensus of the Oneida Business Committee during the work

session, which was to retain a third-party public accounting firm/consultant to process the FY23 Budget. In addition, due to the time that will be needed to move forward with this consensus decision, the Oneida Business Committee determined that the expiration of the continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, on December 31, 2022, and its intended deadline of the adoption of the budget by that expiration will not be met.

The Oneida Business Committee requested the Legislative Operating Committee consider emergency amendments to the Budget and Finances law to allow for additional time to adopt the annual budget. The Legislative Operating Committee added the Budget and Finances law emergency amendments to its Active Files List on October 19, 2022.

The proposed emergency amendments to the Budget and Finances law will:

- Clarify that the Oneida Business Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. [1 O.C. 121.5-4(c)]; and
- Remove the provision which only allows a continuing budget resolution to remain in effect for a maximum of three (3) months. [1 O.C. 121.5-47(e)(1)].

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

The emergency adoption of amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to ensure that the Oneida Business Committee has an opportunity to approve the final draft budget, and the budget to subsequently be adopted, prior to the expiration of the current continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*.

The observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest since the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the current continuing budget resolution as adopted through resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, does not expire on December 31, 2022, prior to the final approval of the budget by the Oneida Business Committee, and subsequent adoption of the budget.

The adoption of the emergency amendments to the Budget and Finances law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendment to the Budget and Finances law will remain effective for six (6) months. The Legislative Procedures Act provides the possibility to extend the emergency amendment for an additional six (6) months, or until the emergency amendment expires or is permanently adopted. [1 O.C. 109.9-5(b)].

Requested Action

Adopt the Resolution: Emergency Amendments to the Budget and Finances Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Emergency Amendments to the Budget and Finances Law

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Budget and Finances law (“the Law”), was adopted by the Oneida Business Committee through resolution BC-02-08-17-C and amended by resolutions BC-05-11-22-B; and
- WHEREAS,** the purpose of the Law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation’s membership; and
- WHEREAS,** section 121.5-4(e) of the Law provides that in the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution for a period of time not to exceed three (3) months, until such a time as a budget is adopted by the General Tribal Council, and that if the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall proceed with the adoption of the Nation’s budget; and
- WHEREAS,** the Oneida Business Committee did not approve and present the Fiscal Year 2023 (FY23) to the General Tribal Council for adoption by September 30, 2022, and instead adopted a continuing budget resolution through the adoption of resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*; and
- WHEREAS,** the processing and adoption of the FY23 budget has been delayed for a variety of issues including the delayed start of the budget process due to compensation studies and staffing issues within the Finance Administration; and
- WHEREAS,** during the October 18, 2022, work session the Oneida Business Committee discussed the delayed processing of the FY23 budget with the Chief Financial Officer and determined

48 that the best option to move forward is to retain a third-party public accounting
49 firm/consultant to process the FY23 Budget; and
50

51 **WHEREAS,** due to the time that will be needed to move forward with this decision, the Oneida Business
52 Committee determined that the expiration of the continuing budget resolution BC-09-14-
53 22-D, *Continuing to Operate Fiscal Year 2023*, on December 31, 2022, and its intended
54 deadline of the adoption of the budget by that expiration will not be met; and
55

56 **WHEREAS,** the Oneida Business Committee requested the Legislative Operating Committee consider
57 emergency amendments to the Law to allow for additional time to adopt the annual budget;
58 and
59

60 **WHEREAS,** the emergency amendments to the Law clarify that the Oneida Business Committee may
61 work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer,
62 and managers to compile a final draft budget to be presented to the General Tribal Council;
63 and
64

65 **WHEREAS,** the emergency amendments to the Law remove the provision which only allows a
66 continuing budget resolution to remain in effect for a maximum of three (3) months; and
67

68 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
69 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable
70 for an additional six (6) months; and
71

72 **WHEREAS,** emergency amendment of legislation is allowed when legislation is necessary for the
73 immediate preservation of the public health, safety, or general welfare of the Reservation
74 population, and the amendment of the legislation is required sooner than would be possible
75 under the Legislative Procedures Act; and
76

77 **WHEREAS,** the emergency adoption of amendments to this Law are necessary for the preservation of
78 the general welfare of the Reservation population in order to ensure that the Oneida
79 Business Committee has an opportunity to approve the final draft budget, and the budget
80 to subsequently be adopted, prior to the expiration of the current continuing budget
81 resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*; and
82

83 **WHEREAS,** the observance of the requirements under the Legislative Procedures Act for adoption of
84 the emergency amendments to this Law would be contrary to public interest since the
85 process and requirements of the Legislative Procedures Act cannot be completed in time
86 to ensure that the current continuing budget resolution as adopted through resolution BC-
87 09-14-22-D, *Continuing to Operate Fiscal Year 2023*, does not expire on December 31,
88 2022, prior to the final approval of the budget by the Oneida Business Committee, and
89 subsequent adoption of the budget; and
90

91 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
92 when considering emergency legislation; and
93

94 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the emergency
95 amendments to the Budget and Finances law effective immediately.



Statement of Effect

Emergency Amendments to the Budget and Finances Law

Summary

This resolution adopts emergency amendments to the Budget and Finances law.

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

Date: October 20, 2022

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Budget and Finances law. The Budget and Finances law sets forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation's membership. [1 O.C. 121.1-1]. The emergency amendments to the Budget and Finances law will:

- Clarify that the Oneida Business Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. [1 O.C. 121.5-4(c)]; and
- Remove the provision which only allows a continuing budget resolution to remain in effect for a maximum of three (3) months. [1 O.C. 121.5-47(e)(1)].

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

The resolution provides that the emergency amendments to the Budget and Finances law are necessary for the preservation of the general welfare of the Reservation population in order to ensure that the Oneida Business Committee has an opportunity to approve the final draft budget, and the budget to subsequently be adopted, prior to the expiration of the current continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*.

Additionally, observance of the requirements under the LPA for adoption of the emergency amendments to the Emergency Management law would be contrary to public interest since the process and requirements of the LPA cannot be completed in time to ensure that the current continuing budget resolution as adopted through resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, does not expire on December 31, 2022, prior to the final approval of the budget by the Oneida Business Committee, and subsequent adoption of the budget.

The adoption of the emergency amendments to the Budget and Finances law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments to the Budget and Finances law will remain effective for six (6) months. The Legislative Procedures Act provides the possibility to extend the emergency amendments for an additional six (6) months, or until the emergency amendments expires or are permanently adopted. [1 O.C. 109.9-5(b)].

Conclusion

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



BUDGET AND FINANCES LAW EMERGENCY AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Clarify that the Oneida Business Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. <i>[1 O.C. 121.5-4(c)];</i> and ▪ Remove the provision which only allows a continuing budget resolution to remain in effect for a maximum of three (3) months. <i>[1 O.C. 121.5-47(e)(1)].</i>
Purpose	<p>To set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:</p> <ul style="list-style-type: none"> ▪ institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; ▪ provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; ▪ identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; ▪ establish a framework for effective financial risk management; and ▪ encourage participation by the Nation’s membership. <i>[1 O.C. 121.1-1]</i>
Affected Entities	Oneida Business Committee, General Tribal Council, Treasurer, CFO, Managers
Public Meeting	A public meeting is not required for emergency legislation <i>[1 O.C. 109.8-1(b) and 109.9-5(a)].</i>
Fiscal Impact	A fiscal impact statement is not required for emergency legislation <i>[1 O.C. 109.9-5(a)].</i>
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Budget and Finances law (“the Law”), formerly known as the Budget Management
- 3 and Control law, was first adopted by the Oneida Business Committee on February 8, 2017, through
- 4 the adoption of resolution BC-02-08-17-C, and most recently amended on May 11, 2022, through the
- 5 adoption of resolution BC-05-11-22-B. The Law sets forth the requirements to be followed by the
- 6 Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to

7 the General Tribal Council for approval, and to establish financial policies and procedures for the
8 Nation which: institutionalize best practices in financial management to guide decision makers in
9 making informed decisions regarding the provision of services, implementation of business plans for
10 enterprises, investments, and capital assets; provide a long term financial prospective and strategic
11 intent, linking budget allocations to organizational goals, as well as providing fiscal controls and
12 accountability for results and outcomes; identify and communicate to the membership of the Nation
13 spending decisions for the government function, grant obligations, enterprises, membership mandates,
14 capital expenditures, technology projects, and capital improvement projects; establish a framework for
15 effective financial risk management; and encourage participation by the Nation's membership. [1 O.C.
16 121.1-1].

17 **B. Request for Emergency Amendments.** On October 18, 2022, during a work session the Oneida
18 Business Committee discussed the processing of the Fiscal Year 2023 (FY23) budget. Issues identified
19 for the delayed processing of the FY23 budget include: delayed start of the budget process due to
20 compensation studies; end of December deadline for approval of the budget required by the Budget and
21 Finances law; medical leave of the Treasurer and Assistant Chief Financial Officer; and the impending
22 leave of the Chief Financial Officer in December. The Chief Financial Officer presented and discussed
23 four (4) options on how to move forward. One (1) option was agreed to by consensus of the Oneida
24 Business Committee during the work session, which was to retain a third-party public accounting
25 firm/consultant to process the FY23 Budget. In addition, due to the time that will be needed to move
26 forward with this consensus decision, the Oneida Business Committee determined that the expiration
27 of the continuing budget resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, on
28 December 31, 2022, and its intended deadline of the adoption of the budget by that expiration will not
29 be met. The Oneida Business Committee requested the LOC consider emergency amendments to the
30 Budget and Finances law to allow for additional time to adopt the annual budget. The Legislative
31 Operating Committee added the Budget and Finances law emergency amendments to its Active Files
32 List on October 19, 2022.

34 **SECTION 3. CONSULTATION AND OUTREACH**

- 35 **A.** Representatives from the following departments or entities participated in the development of the
36 emergency amendments to this Law and legislative analysis:
- 37 ▪ Oneida Law Office.
- 38 **B.** The Legislative Operating Committee has held the following work meetings specific to the proposed
39 emergency amendments to this Law:
- 40 ▪ October 18, 2022: Oneida Business Committee work session. Councilmembers Jordan, Webster,
41 Metoxen, and Cornelius were present in the Oneida Business Committee work session.

43 **SECTION 4. PROCESS**

- 44 **A.** These amendments are being considered on an emergency basis. The Oneida Business Committee may
45 temporarily enact emergency legislation where legislation is necessary for the immediate preservation
46 of public health, safety, or general welfare of the Reservation population and enactment, or amendment
47 of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
- 48 ▪ The emergency adoption of amendments to this Law are necessary for the preservation of the
49 general welfare of the Reservation population in order to ensure that the Oneida Business

50 Committee has an opportunity to approve the final draft budget, and the budget to subsequently be
51 adopted, prior to the expiration of the current continuing budget resolution BC-09-14-22-D,
52 *Continuing to Operate Fiscal Year 2023*.

- 53 ■ Observance of the requirements under the Legislative Procedures Act for adoption of the
54 emergency amendments to this Law would be contrary to public interest since the process and
55 requirements of the Legislative Procedures Act cannot be completed in time to ensure that the
56 current continuing budget resolution as adopted through resolution BC-09-14-22-D, *Continuing to*
57 *Operate Fiscal Year 2023*, does not expire on December 31, 2022, prior to the final approval of the
58 budget by the Oneida Business Committee, and subsequent adoption of the budget.

59 **B.** The emergency amendments will expire six (6) months after adoption, with one (1) opportunity for a
60 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].

61 **C.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
62 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact
63 statement will eventually be required when considering permanent adoption of this Law.

64 **D.** The Legislative Operating Committee added these emergency amendments to the Active Files List on
65 October 19, 2022.
66

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

68 **A. *Final Draft Budget.*** Previously, the Law provided that the Oneida Business Committee shall work
69 with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General
70 Tribal Council. The proposed emergency amendments to the Law clarify that the Oneida Business
71 Committee may work with any other appropriate entity in addition to the Treasurer, Chief Financial
72 Officer, and managers to compile a final draft budget to be presented to the General Tribal Council. [1
73 O.C. 121.5-4(c)].

- 74 ■ ***Effect.*** The proposed emergency amendments to the Law provides greater clarification that
75 the Oneida Business Committee may work with any appropriate entity to compile a final draft
76 budget to be presented to the General Tribal Council.

77 **B. *Continuing Budget Resolution.*** Previously, the Law provided that in the event that the General Tribal
78 Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a
79 continuing budget resolution for a period of time not to exceed three (3) months, until such a time as a
80 budget is adopted by the General Tribal Council. [1 O.C. 121.5-4(e)(1)]. The proposed emergency
81 amendments to the Law remove the provision which only allows a continuing budget resolution to
82 remain in effect for a maximum of three (3) months. [1 O.C. 121.5-4(e)(1)].

- 83 ■ ***Effect.*** The emergency amendment provides greater flexibility in the length of time a
84 continuing budget resolution is allowed to remain in place.

85 **SECTION 6. EXISTING LEGISLATION**

86 **A. *Related Legislation.*** The following laws of the Nation are related to the emergency amendments to this
87 Law:
88

- 89 ■ ***Legislative Procedures Act.*** The Legislative Procedures Act was adopted by the General Tribal
90 Council on January 7, 2013, for the purpose of providing a standard process for the adoption
91 of laws of the Nation which includes taking into account comments from members of the
92 Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].

- 93 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
94 legislation when the legislation is necessary for the immediate preservation of the
95 public health, safety, or general welfare of the Reservation population and the
96 enactment or amendment of legislation is required sooner than would be possible under
97 this law. [1 O.C. 109.9-5].
- 98 ▪ The Legislative Operating Committee is responsible for first reviewing the
99 emergency legislation and for forwarding the legislation to the Oneida
100 Business Committee for consideration. [1 O.C. 109.9-5(a)].
- 101 ▪ The proposed emergency legislation is required to have a legislative analysis
102 completed and attached prior to being sent to the Oneida Business Committee
103 for consideration. [1 O.C. 109.9-5(a)].
- 104 a. A legislative analysis is a plain language analysis describing the
105 important features of the legislation being considered and factual
106 information to enable the Legislative Operating Committee to make
107 informed decisions regarding legislation. A legislative analysis
108 includes a statement of the legislation’s terms and substance; intent of
109 the legislation; a description of the subject(s) involved, including any
110 conflicts with Oneida or other law, key issues, potential impacts of the
111 legislation and policy considerations. [1 O.C. 109.3-1(g)].
- 112 ▪ Emergency legislation does not require a fiscal impact statement to be
113 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- 114 ▪ Upon the determination that an emergency exists the Oneida Business
115 Committee can adopt emergency legislation. The emergency legislation
116 becomes effective immediately upon its approval by the Oneida Business
117 Committee. [1 O.C. 109.9-5(b)].
- 118 ▪ Emergency legislation remains in effect for a period of up to six (6) months,
119 with an opportunity for a one-time emergency law extension of up to six (6)
120 months. [1 O.C. 109.9-5(b)].
- 121 ▪ Adoption of these proposed emergency amendments conform with the requirements of
122 the Legislative Procedures Act.
- 123

124 **SECTION 7. OTHER CONSIDERATIONS**

- 125 **A. *Deadline for Permanent Adoption of Legislation.*** The adoption of emergency amendments to the Law
126 expire six (6) months after adoption. The emergency legislation may be renewed for an additional six
127 (6) month period.
- 128 ▪ *Conclusion:* The Legislative Operating Committee will need to determine if the adoption of these
129 amendments is necessary on a permanent basis, and if so, develop the permanent amendments to
130 this Law within the next six (6) to twelve (12) months.
- 131 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- 132 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
133 emergency legislation [1 O.C. 109.6-1].

134

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

1
2
3 **121.1. Purpose and Policy**

4 121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the
5 Oneida Business Committee and the Oneida fund units when preparing the budget to be presented
6 to the General Tribal Council for approval, and to establish financial policies and procedures for
7 the Nation which:

- 8 (a) institutionalize best practices in financial management to guide decision makers in
9 making informed decisions regarding the provision of services, implementation of business
10 plans for enterprises, investments, and capital assets;
11 (b) provide a long term financial prospective and strategic intent, linking budget
12 allocations to organizational goals, as well as providing fiscal controls and accountability
13 for results and outcomes;
14 (c) identify and communicate to the membership of the Nation spending decisions for the
15 government function, grant obligations, enterprises, membership mandates, capital
16 expenditures, technology projects, and capital improvement projects;
17 (d) establish a framework for effective financial risk management; and
18 (e) encourage participation by the Nation's membership.

19 121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies,
20 identifying proper authorities and ensuring compliance and enforcement. The Nation shall use
21 Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting
22 Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and
23 reporting for the financial activities of the various entities of the Nation, unless they conflict with
24 applicable legal requirements.
25

26 **121.2. Adoption, Amendment, Repeal**

27 121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-
28 C, ~~and~~ amended by resolution BC-05-11-22-B, and amended on an emergency basis by resolution
29 BC- - - -.

30 121.2-2. This law may be amended or repealed by the Oneida Business Committee or the General
31 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

32 121.2-3. Should a provision of this law or the application thereof to any person or circumstances
33 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
34 to have legal force without the invalid portions.

35 121.2-4. In the event of a conflict between a provision of this law and a provision of another law,
36 the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

37 requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting*
38 *Requirements*.

39 121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
40

41 **121.3. Definitions**

42 121.3-1. This section shall govern the definitions of words and phrases used within this law. All
43 words not defined herein shall be used in their ordinary and everyday sense.

44 (a) “Balanced budget” means that the cost of current expenses and service provisions is
45 equal to the forecasted current revenue sources.

46 (b) “Capital contribution” means an act of giving money or assets to a company or
47 organization.

48 (c) “Capital expenditure” means any non-recurring and non-physical improvement as
49 follows:

50 (1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life
51 of one (1) year or more; or

52 (2) Items purchased together where none of the items individually costs more than
53 two thousand dollars (\$2,000), but the total purchase price for all of the items is ten
54 thousand dollars (\$10,000) or more.

55 (d) “Capital improvement” means a non-recurring expenditure for physical improvements,
56 including costs for:

57 (1) acquisition of existing buildings, land, or interests in land;

58 (A) Acquisition of existing buildings and land completed by the Oneida
59 Land Commission are not included in this definition.

60 (2) construction of new buildings or other structures, including additions and major
61 alterations;

62 (3) acquisition of fixed equipment;

63 (4) landscaping;

64 (5) physical infrastructure; and

65 (6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more
66 and a useful life of one (1) year or more.

67 (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

68 (f) “Debt” means the secured or unsecured obligations owed by the Nation.

69 (g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow
70 to pay debt obligations. This ratio evaluates if an entity has income capacity to service
71 debts.

72 (h) “Enterprise” means any area or activity of the Nation that is engaged in for the business
73 of profit.

74 (i) “Executive Manager” means a position of employment within the Nation that is the
75 highest level in the chain of command under the Oneida Business Committee who is
76 responsible for a department or division of the Nation, as identified by the Oneida Business
77 Committee through the adoption of a resolution.

78 (j) “Expenditure report” means a financial report which includes, but is not limited to, a
79 statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of
80 financial position.

81 (k) “Finance Administration” means the department of the Nation which consists of the
82 Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the

- 83 Chief Financial Officer, and any other designated employee.
84 (l) “Fiscal year” means the one (1) year period each year from October 1st to September
85 30th.
86 (m) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of
87 earnings level or ability to cover its fixed charges such as debt payments, interest expenses,
88 and leases expenses. Financial institutions will evaluate this ratio for purposes of credit
89 risk.
90 (n) “Fund unit” means any board, committee, commission, service, program, enterprise,
91 department, office, or any other division or non-division of the Nation which receives an
92 appropriation approved by the Nation.
93 (o) “Government service” means any area or activity of the Nation that is not expected to
94 create revenue for the Nation and not expected to make a profit at any time.
95 (p) “Line item” means the specific account within a fund unit’s budget or category that
96 expenditures are charged to.
97 (q) “Manager” means the person in charge of directing, controlling, and administering the
98 activities of a fund unit.
99 (r) “Nation” means the Oneida Nation.
100 (s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.
101 (t) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.
102

103 **121.4. Authority and Responsibilities**

104 121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- 105 (a) oversee the development of the Nation’s budget;
106 (b) oversee the implementation of the Nation’s budget;
107 (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
108 (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws
109 of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal
110 Council.

111 121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the
112 Nation’s Treasurer shall:

- 113 (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the
114 Nation, whether they be funds of the Nation or special funds for which the Nation is acting
115 as trustee or custodian;
116 (b) deposit all funds in such depository as the Nation shall direct and shall make and
117 preserve a faithful record of such funds;
118 (c) submit expenditure reports and other financial reports as deemed necessary by the
119 Oneida Business Committee or the General Tribal Council at:
120 (1) the annual General Tribal Council meeting;
121 (2) the semi-annual General Tribal Council meeting; and
122 (3) other such times as may be directed by the Oneida Business Committee or the
123 General Tribal Council; and
124 (d) present the proposed draft budget to the General Tribal Council at the annual budget
125 meeting.

126 121.4-3. *Chief Financial Officer.* The CFO shall:

- 127 (a) ensure the Nation’s budget is properly implemented;
128 (b) provide managers with monthly revenue and expense reports;

129 (c) assist with the submission and presentation of the Treasurer's report to the Oneida
130 Business Committee, which shall specifically include any monthly variances that are
131 either:

132 (1) a difference of three percent (3%) or more from the adopted annual budget; or
133 (2) fifty thousand dollars (\$50,000) or more in total;

134 (d) provide the Oneida Business Committee with information and reports as requested;

135 (e) present the Treasurer's report and hold financial condition meetings with the Nation's
136 management on a minimum of a quarterly basis; and

137 (f) inform the appropriate Executive Manager of any fund unit which does not follow the
138 budget development process guidelines or deadlines as set forth by the Treasurer.

139 121.4-4. *Managers*. Managers shall:

140 (a) ensure that their business units operate, on a day-to-day basis, in compliance with the
141 budget adopted pursuant to this law;

142 (b) report to the CFO and their relevant Executive Manager explanations and corrective
143 actions for any monthly variance that is either:

144 (1) a difference of three percent (3%) or more from the adopted annual budget; or

145 (2) fifty thousand dollars (\$50,000) or more in total;

146 (c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed
147 thirty (30) calendar days from the end of the month; and

148 (d) submit a budget for their fund unit in accordance with the budget schedule and
149 guidelines as adopted by the Oneida Business Committee.

150

151 **121.5. Budget**

152 121.5-1. The Nation shall develop, adopt, and manage an annual budget. All revenues and
153 expenditures of the Nation shall be in accordance with the annual budget.

154 (a) The Nation's budget shall be a balanced budget and not propose to spend more funds
155 than are reasonably expected to become available to the Nation during that fiscal year.

156 (1) Underwriting debt resources or the utilization of existing debt instruments shall
157 be expressly prohibited from use to balance the Nation's annual budget.

158 (b) The budget shall align with any strategic plan, broad goals, or priorities developed and
159 adopted by the Oneida Business Committee on behalf of the Nation.

160 (c) The Nation's corporate entities shall not be included in the Nation's budget.

161 121.5-2. *Content of the Budget*. The Nation's budget shall include the following information:

162 (a) Estimated revenues to be received from all sources;

163 (b) The individual budgets of each fund unit;

164 (c) A description of each line item within each fund unit's budget;

165 (d) The estimated expenditures by each fund unit; and

166 (e) Summary of employment position counts including prior year, current year, and
167 budgeted year.

168 121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following
169 categories of fund accounts:

170 (a) *General Fund*. The General Fund account is the Nation's main operating fund which
171 is used to account for all financial resources not accounted for in other funds.

172 (b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund
173 account is used by the Nation to prevent default on debt and to sustain operations during
174 times of extreme financial distress.

175 (c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-
176 fund the expenditures of grants upon receipt.

177 121.5-4. *Budget Adoption Procedure*. The Nation shall develop and adopt its budget according
178 to the following procedures:

179 (a) *Budget Schedule and Guidelines*. The Treasurer shall develop the necessary
180 guidelines, including specific timelines and deadlines, to be followed by the managers that
181 have budget responsibility in preparing and submitting proposed budgets. The Treasurer
182 shall submit the guidelines to the Oneida Business Committee for review and approval
183 through the adoption of a resolution.

184 (1) The budget schedule and guidelines shall include at least one (1) opportunity
185 for community input from the Nation's membership on what should be included in
186 the upcoming fiscal year budget.

187 (2) Each fund unit shall be responsible for complying with the budget schedule and
188 guidelines to submit a proposed budget to the Treasurer. The Finance
189 Administration shall not submit any budget on behalf of a fund unit unless granted
190 express permission from the Oneida Business Committee.

191 (3) The Oneida Business Committee shall set a deadline through the adoption of a
192 resolution for when the Treasurer shall submit their budget guidelines to the Oneida
193 Business Committee for review and approval.

194 (b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the
195 proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall
196 present the Nation's draft budget to the Oneida Business Committee for review each year
197 to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget
198 strategy.

199 (1) *Notification of Budget Increase or Decrease*. The Treasurer shall identify in
200 the budget guidelines a percentage of an increase or decrease in a fund unit's budget
201 from the prior year budget that is required to be noticed to the Oneida Business
202 Committee. The Treasurer shall notify the Oneida Business Committee of any fund
203 units whose proposed budget increased or decreased by this percentage.

204 (c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer,
205 CFO, ~~and managers,~~ or other appropriate entity to compile a final draft budget to be
206 presented to the General Tribal Council. The Oneida Business Committee shall approve,
207 by resolution, the final draft budget to be presented to the General Tribal Council.

208 (d) *Community Meetings*. Once the Oneida Business Committee has approved the final
209 draft budget, the Treasurer shall hold, at a minimum, two (2) community informational
210 meetings to present the contents of the final draft budget that will be presented to the
211 General Tribal Council.

212 (e) *Budget Adoption*. The Oneida Business Committee shall present the budget to the
213 General Tribal Council with a request for adoption by resolution no later than September
214 30th of each year. The General Tribal Council shall be responsible for adopting the
215 Nation's budget.

216 (1) *Continuing Budget Resolution*. In the event that the General Tribal Council
217 does not adopt a budget by September 30th, the Oneida Business Committee may
218 adopt a continuing budget resolution ~~for a period of time not to exceed three (3)~~
219 ~~months,~~ until such time as a budget is adopted ~~by the General Tribal Council~~. If the
220 General Tribal Council does not adopt a budget within three (3) months of the

221 adoption of the continuing budget resolution, then the Oneida Business Committee
222 shall ~~adopt~~proceed with the adoption of the Nation's budget.

223 (2) *Emergency Budget Adoption.* In the event that the Nation proclaims an
224 emergency, in accordance with the Emergency Management law, that stays in effect
225 for at least one (1) month and prevents the presentation to and adoption of the
226 budget by the General Tribal Council, the Oneida Business Committee shall adopt
227 the Nation's budget.

228 121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the
229 budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and
230 CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner
231 which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business
232 Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida
233 Business Committee shall be responsible for adopting an amendment to the budget through
234 resolution of the Nation. The Oneida Business Committee shall present notification of the budget
235 amendment at the next available General Tribal Council meeting.

236
237 **121.6. Expenditures and Assets**

238 121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to
239 expend appropriated funds in accordance with the Nation's adopted budget pursuant to the
240 Procurement Rule Handbook developed by the Purchasing Department. The authority to expend
241 funds is then necessarily delegated to other managers, including Executive Managers of the Nation
242 who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook.

243 121.6-2. *Procurement Rule Handbook.* The Purchasing Department is delegated rulemaking
244 authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule
245 Handbook which provides the sign-off process and authorities required to expend funds on behalf
246 of the Nation.

247 121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal
248 contribution may charge fees for their services to cover operational costs.

249 (a) Before charging fees for services, a program or service shall first determine the full
250 cost of providing the program or service. The full cost of providing a program or service
251 includes all costs including operation costs, overhead such as direct and indirect costs, and
252 depreciation.

253 (b) Fees and charges may cover the full cost of service or goods whenever such fee or
254 charge would not present an undue financial burden to the recipient.

255 (c) Programs and services charging fees may offer fee waivers, provided that the program
256 or service has developed a standard operating procedure which outlines fee waiver
257 eligibility and requirements.

258 121.6-4. *Unbudgeted Expenditures.*

259 (a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted
260 expenditure unless approval is granted by the Oneida Business Committee. The CFO shall
261 provide the Oneida Business Committee a written fiscal analysis and any input on the
262 potential unbudgeted expenditure. The Oneida Business Committee shall approve any
263 unbudgeted expenditure through the adoption of a resolution prior to the expenditure being
264 made by a fund unit.

265 (b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set
266 through resolution a threshold amount for unbudgeted expenditures that require

267 notification by the Oneida Business Committee to the General Tribal Council at the next
268 available General Tribal Council meeting.

269 (c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any
270 supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000)
271 or more, the Oneida Business Committee shall develop and adopt, through resolution, a
272 spending plan to guide expenditures of the supplemental funding in accordance with any
273 provided guidance for the supplemental funding and audit compliance.

274 121.6-5. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, no
275 fund unit shall obligate the Nation to make any future expenditures beyond the current budget year
276 unless the fund unit identifies, and the Oneida Business Committee approves through the adoption
277 of a resolution, the source and extent of any future funds that are recommended to be held in
278 reserve to meet that future obligation.

279 121.6-6. *Unexpended Funds.*

280 (a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds
281 shall carry over to the next fiscal year's budget, provided that such funds are required to
282 remain appropriated for the same purpose as originally budgeted until the project is
283 complete. Once a capital improvement project is complete, any remaining unexpended
284 funds shall be returned to the General Fund.

285 (b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all
286 unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years
287 out from the fiscal year in which the funds were unexpended. Such unexpended funds shall
288 be returned to the General Fund.

289 121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified
290 in the annual budget.

291 (a) Any reassignment of a loan provided by the Nation into a capital contribution shall be
292 noticed to the General Tribal Council.

293 121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual
294 budget.

295 121.6-9. *Capital Improvements.*

296 (a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee
297 shall develop, and the General Tribal Council shall approve, a capital improvement plan
298 for government services.

299 (1) The capital improvement plan for government services shall cover a period of
300 five (5) to ten (10) years and shall include any risks and liabilities.

301 (2) The capital improvement plan for government services shall be reassessed once
302 every five (5) years. The Oneida Business Committee shall provide a status report
303 and recommendation for any improvements that have not been completed or that
304 have been modified at the time of the reassessment.

305 (b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises
306 may be brought forward as needed, provided that the Oneida Business Committee shall
307 approve all capital improvement plans for enterprises.

308 (c) *Capital Improvement Plan Implementation.* Capital improvement plans for
309 government services and enterprises shall be implemented, contingent on available funding
310 capacity.

311

312 **121.7. Grants**

313 121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable
314 grant requirements and guidelines of the granting agency.

315 (a) Grant funds may be utilized for, but not limited to, the following:

316 (1) purchases;

317 (2) travel;

318 (3) training;

319 (4) hiring grant required positions;

320 (5) incentives and retention efforts; and

321 (6) any other requirements attached to the funds as a condition of the Nation's
322 acceptance of the grant funds.

323 (b) Grant funds may be utilized for an expenditure even when other policies of the Nation
324 do not allow for Tribal contribution to make that same expenditure, if only grant funds are
325 utilized for the expenditure and all requirements or obligations of the grant are met.
326 Provided that, grant funds may be subject to the requirements of the budget contingency
327 plan and any cost containment initiatives adopted by the Oneida Business Committee.

328 121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as
329 applicable to a function for which the Nation's funds have also been appropriated, those grant
330 funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed
331 to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the
332 grant funds that provide otherwise.

333 121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit
334 which receives grant funding shall submit a status report of the grant funding received to the
335 Oneida Business Committee. The status report shall include, but not be limited to:

336 (a) information on the progress of the utilization of the grant funds;

337 (b) the number of employees the grant funding supports fully or partially; and

338 (c) compliance with obligations of the grant funding.

339 121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant
340 Reserve Fund account within the ownership investment report to be used to pre-fund the
341 expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund,
342 that is fully funded with separately identified cash resources.

343 (a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business
344 Committee shall approve, the level of funds required in the Grant Reserve Fund account
345 relative to the scale of grant dollars we receive on an annual basis.

346 (b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account
347 until the established level has been achieved.

348 121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is
349 eliminated, then the position shall be eliminated. To transition a position from grant funding to
350 being funded through the Nation's budget, a manager shall follow the standard procedure for
351 seeking the development and approval of a new position in the Nation's annual budget and labor
352 allocations.

353
354 **121.8. Debts**

355 121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with
356 sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws,
357 rules, and policies applicable to the credit agreement.

358 (a) Any debt instrument utilized by the Nation shall not exceed the life of what is being
359 encumbered.

360 121.8-2. *Acquisition of Debt.* Any debt underwritten by the Nation for ten million dollars
361 (\$10,000,000) or more shall be noticed to the General Tribal Council at the next available meeting
362 prior to the execution of the credit agreement encumbering all pledges of repayment.

363 (a) If emergency circumstances exist which prevents the notice of the acquisition of debt
364 to the General Tribal Council, the Oneida Business Committee may proceed with the
365 acquisition of debt.

366 121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing
367 of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit
368 default.

369 121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with
370 effective budget management and financial control.

371 (a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed the
372 acceptable range as defined by low-risk debt financing options at the specific financial
373 institution.

374 (b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained
375 at the acceptable range as defined by low-risk debt financing options at the specific
376 financial institution.

377 121.8-5. *Corporate Debt.* The Nation shall not be obligated to any debt obligations of its corporate
378 entities.

379

380 **121.9. Employment and Labor Allocations**

381 121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-
382 time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee
383 shall have the authority to approve this employment cap, and any amendments thereto, through the
384 adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business
385 Committee.

386 (a) Employment positions that are fully funded through grants shall not be included in the
387 employment cap.

388 (b) The Nation shall not exceed the number of FTE employees identified in the
389 employment cap.

390 121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive
391 Human Resources Director shall utilize the Nation's employment cap to develop a labor
392 allocations list. The labor allocations list shall identify the number of FTE employees each
393 employment area of the Nation is allocated. The Oneida Business Committee shall have the
394 authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a
395 resolution. The Oneida Business Committee shall review the labor allocations list on an annual
396 basis.

397 (a) The total number of FTE employees identified in the labor allocations list shall not
398 exceed the Nation's employment cap.

399 (b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director
400 shall develop a standard operating procedure which identifies a process for the
401 consideration of requests to revise the labor allocations list. The Oneida Business
402 Committee shall approve this standard operating procedure, and any amendments thereto,
403 through the adoption of a resolution.

404 121.9-3. *Unbudgeted Positions*. Any position which has not been specifically budgeted for and
405 included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved
406 positions shall not be transferrable in any form.

407 (a) *Exception*. The Oneida Business Committee may authorize an unbudgeted position for
408 a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis
409 and any input on the potential unbudgeted position. The Oneida Business Committee shall
410 authorize the unbudgeted position through the adoption of a resolution.

411
412 **121.10. Budget Contingency Planning**

413 121.10-1. *Budget Contingency Plan*. The Oneida Business Committee shall work with the CFO,
414 Executive Managers, and managers to create a budget contingency plan which provides a strategy
415 for the Nation to respond to extreme financial distress that could negatively impact the Nation.

- 416 (a) Extreme financial distress includes, but is not limited to:
- 417 (1) natural or human-made disasters;
 - 418 (2) United States Government shutdown;
 - 419 (3) emergency proclamations; and
 - 420 (4) economic downturns.
- 421 (b) The Oneida Business Committee shall approve the budget contingency plan, and any
422 amendments thereto, through the adoption of a resolution.

423 121.10-2. *Cost Saving Tools*. As part of the budget contingency plan, the Oneida Business
424 Committee may require the use of cost saving tools, provided that the use of such complies with
425 all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the
426 following:

- 427 (a) stabilization funds;
- 428 (b) reductions of expenditures;
- 429 (c) furloughs; and
- 430 (d) layoffs.

431 121.10-3. When the Oneida Business Committee determines that the Nation is under extreme
432 financial distress, the Oneida Business Committee shall be responsible for implementing the
433 budget contingency plan.

434 121.10-4. *Permanent Executive Contingency Fund Account*. The Oneida Business Committee
435 shall maintain a Permanent Executive Contingency Fund account within the ownership investment
436 report to be used to prevent default on debt and to sustain operations during times of extreme
437 financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

- 438 (a) The Permanent Executive Contingency Fund account shall consist of a minimum
439 reserve of one (1) year of operating expenses to ensure continuity of business for the
440 Nation.
- 441 (b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business
442 Committee shall approve through the adoption of a resolution, the percentage of the annual
443 budget that shall be set aside in the Permanent Executive Contingency Fund account until
444 the established level has been achieved.
- 445 (c) Funds in the Permanent Executive Contingency Fund account may only be used when
446 the Oneida Business Committee has determined that the Nation is under extreme financial
447 distress for the following purposes and only to the extent that alternative funding sources
448 are unavailable:

- 449 (1) payments to notes payable to debt service, both principal and interest, and
450 applicable service fees;
451 (2) employee payroll, including all applicable taxes;
452 (3) payments to vendors for gaming and retail;
453 (4) payments to vendors for governmental operations;
454 (5) payments to any other debt; and
455 (6) to sustain any of the Nation's other operations during implementation of the
456 budget contingency plan.

457
458 **121.11. Reporting**

459 121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly
460 operational reports from direct reports to the Oneida Business Committee in accordance with the
461 Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee
462 meeting held for the acceptance of such reports.

463 (a) The Treasurer's monthly reports shall include revenue and expense summaries.

464 121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall
465 report on all receipts and expenditures and the amount and nature of all funds in their possession
466 and custody, at the annual and semi-annual General Tribal Council meetings, and at such other
467 times as requested by the General Tribal Council or the Oneida Business Committee.

468 (a) The Treasurer reports shall include an independently audited annual financial statement
469 that provides the status or conclusion of all the receipts and debts in possession of the
470 Treasurer including, but not limited to, all corporations owned in full or in part by the
471 Nation.

472 121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent
473 comprehensive performance audits, in accordance with the Nation's Audit law, the Financial
474 Accounting Standards Board (FASB) and the Governmental Accounting Standards Board
475 (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida
476 Business Committee or Internal Audit Department. Each fund unit shall offer its complete
477 cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems
478 necessary, contract with an independent audit firm to conduct such audits.

479
480 **121.12. Enforcement**

481 121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply
482 with and enforce this law to the greatest extent possible.

483 (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit
484 which does not comply with the budget schedule or guidelines. A list of any fund units of
485 an elected entity which did not comply with the budget schedule or guidelines shall be
486 included in the annual report to the General Tribal Council.

487 121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement
488 tools provided by the Nation's laws and policies including, but not limited to, those related to
489 employment with the Nation, conflicts of interest, ethics, and removal from an elected position.

490 121.12-3. *Civil or Criminal Charges.* This law shall not be construed to preclude the Nation from
491 pursuing civil or criminal charges under applicable law. Violations of applicable federal or state
492 civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction
493 over any such matter.

494

495 *End.*
496 Adopted – BC-02-08-17-C
497 Emergency Amended – BC-11-24-20-E
498 Emergency Amended – BC-05-12-21-C
499 Emergency Extension – BC-11-10-21-B
500 Amended – BC-05-11-22-B
501 Emergency Amended – BC- - - -

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, amended by resolution BC-05-11-22-B, and amended on an emergency basis by resolution BC-__-__-__.

121.2-2. 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.

121.2-3. 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.

121.2-4. 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. Provided that, nothing in this law amends or repeals the

37 requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting*
38 *Requirements*.

39 121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
40

41 **121.3. Definitions**

42 121.3-1. This section shall govern the definitions of words and phrases used within this law. All
43 words not defined herein shall be used in their ordinary and everyday sense.

44 (a) “Balanced budget” means that the cost of current expenses and service provisions is
45 equal to the forecasted current revenue sources.

46 (b) “Capital contribution” means an act of giving money or assets to a company or
47 organization.

48 (c) “Capital expenditure” means any non-recurring and non-physical improvement as
49 follows:

50 (1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life
51 of one (1) year or more; or

52 (2) Items purchased together where none of the items individually costs more than
53 two thousand dollars (\$2,000), but the total purchase price for all of the items is ten
54 thousand dollars (\$10,000) or more.

55 (d) “Capital improvement” means a non-recurring expenditure for physical improvements,
56 including costs for:

57 (1) acquisition of existing buildings, land, or interests in land;

58 (A) Acquisition of existing buildings and land completed by the Oneida
59 Land Commission are not included in this definition.

60 (2) construction of new buildings or other structures, including additions and major
61 alterations;

62 (3) acquisition of fixed equipment;

63 (4) landscaping;

64 (5) physical infrastructure; and

65 (6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more
66 and a useful life of one (1) year or more.

67 (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

68 (f) “Debt” means the secured or unsecured obligations owed by the Nation.

69 (g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow
70 to pay debt obligations. This ratio evaluates if an entity has income capacity to service
71 debts.

72 (h) “Enterprise” means any area or activity of the Nation that is engaged in for the business
73 of profit.

74 (i) “Executive Manager” means a position of employment within the Nation that is the
75 highest level in the chain of command under the Oneida Business Committee who is
76 responsible for a department or division of the Nation, as identified by the Oneida Business
77 Committee through the adoption of a resolution.

78 (j) “Expenditure report” means a financial report which includes, but is not limited to, a
79 statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of
80 financial position.

81 (k) “Finance Administration” means the department of the Nation which consists of the
82 Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the

Chief Financial Officer, and any other designated employee.

(l) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(m) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk.

(n) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

(p) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(q) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(r) “Nation” means the Oneida Nation.

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(t) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) oversee the development of the Nation’s budget;
- (b) oversee the implementation of the Nation’s budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation’s Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
- (d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

- (a) ensure the Nation’s budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;

129 (c) assist with the submission and presentation of the Treasurer's report to the Oneida
130 Business Committee, which shall specifically include any monthly variances that are
131 either:

132 (1) a difference of three percent (3%) or more from the adopted annual budget; or

133 (2) fifty thousand dollars (\$50,000) or more in total;

134 (d) provide the Oneida Business Committee with information and reports as requested;

135 (e) present the Treasurer's report and hold financial condition meetings with the Nation's
136 management on a minimum of a quarterly basis; and

137 (f) inform the appropriate Executive Manager of any fund unit which does not follow the
138 budget development process guidelines or deadlines as set forth by the Treasurer.

139 121.4-4. *Managers*. Managers shall:

140 (a) ensure that their business units operate, on a day-to-day basis, in compliance with the
141 budget adopted pursuant to this law;

142 (b) report to the CFO and their relevant Executive Manager explanations and corrective
143 actions for any monthly variance that is either:

144 (1) a difference of three percent (3%) or more from the adopted annual budget; or

145 (2) fifty thousand dollars (\$50,000) or more in total;

146 (c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed
147 thirty (30) calendar days from the end of the month; and

148 (d) submit a budget for their fund unit in accordance with the budget schedule and
149 guidelines as adopted by the Oneida Business Committee.

150 151 **121.5. Budget**

152 121.5-1. The Nation shall develop, adopt, and manage an annual budget. All revenues and
153 expenditures of the Nation shall be in accordance with the annual budget.

154 (a) The Nation's budget shall be a balanced budget and not propose to spend more funds
155 than are reasonably expected to become available to the Nation during that fiscal year.

156 (1) Underwriting debt resources or the utilization of existing debt instruments shall
157 be expressly prohibited from use to balance the Nation's annual budget.

158 (b) The budget shall align with any strategic plan, broad goals, or priorities developed and
159 adopted by the Oneida Business Committee on behalf of the Nation.

160 (c) The Nation's corporate entities shall not be included in the Nation's budget.

161 121.5-2. *Content of the Budget*. The Nation's budget shall include the following information:

162 (a) Estimated revenues to be received from all sources;

163 (b) The individual budgets of each fund unit;

164 (c) A description of each line item within each fund unit's budget;

165 (d) The estimated expenditures by each fund unit; and

166 (e) Summary of employment position counts including prior year, current year, and
167 budgeted year.

168 121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following
169 categories of fund accounts:

170 (a) *General Fund*. The General Fund account is the Nation's main operating fund which
171 is used to account for all financial resources not accounted for in other funds.

172 (b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund
173 account is used by the Nation to prevent default on debt and to sustain operations during
174 times of extreme financial distress.

175 (c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-
176 fund the expenditures of grants upon receipt.

177 121.5-4. *Budget Adoption Procedure*. The Nation shall develop and adopt its budget according
178 to the following procedures:

179 (a) *Budget Schedule and Guidelines*. The Treasurer shall develop the necessary
180 guidelines, including specific timelines and deadlines, to be followed by the managers that
181 have budget responsibility in preparing and submitting proposed budgets. The Treasurer
182 shall submit the guidelines to the Oneida Business Committee for review and approval
183 through the adoption of a resolution.

184 (1) The budget schedule and guidelines shall include at least one (1) opportunity
185 for community input from the Nation's membership on what should be included in
186 the upcoming fiscal year budget.

187 (2) Each fund unit shall be responsible for complying with the budget schedule and
188 guidelines to submit a proposed budget to the Treasurer. The Finance
189 Administration shall not submit any budget on behalf of a fund unit unless granted
190 express permission from the Oneida Business Committee.

191 (3) The Oneida Business Committee shall set a deadline through the adoption of a
192 resolution for when the Treasurer shall submit their budget guidelines to the Oneida
193 Business Committee for review and approval.

194 (b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the
195 proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall
196 present the Nation's draft budget to the Oneida Business Committee for review each year
197 to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget
198 strategy.

199 (1) *Notification of Budget Increase or Decrease*. The Treasurer shall identify in
200 the budget guidelines a percentage of an increase or decrease in a fund unit's budget
201 from the prior year budget that is required to be noticed to the Oneida Business
202 Committee. The Treasurer shall notify the Oneida Business Committee of any fund
203 units whose proposed budget increased or decreased by this percentage.

204 (c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer,
205 CFO, managers, or other appropriate entity to compile a final draft budget to be presented
206 to the General Tribal Council. The Oneida Business Committee shall approve, by
207 resolution, the final draft budget to be presented to the General Tribal Council.

208 (d) *Community Meetings*. Once the Oneida Business Committee has approved the final
209 draft budget, the Treasurer shall hold, at a minimum, two (2) community informational
210 meetings to present the contents of the final draft budget that will be presented to the
211 General Tribal Council.

212 (e) *Budget Adoption*. The Oneida Business Committee shall present the budget to the
213 General Tribal Council with a request for adoption by resolution no later than September
214 30th of each year. The General Tribal Council shall be responsible for adopting the
215 Nation's budget.

216 (1) *Continuing Budget Resolution*. In the event that the General Tribal Council
217 does not adopt a budget by September 30th, the Oneida Business Committee may
218 adopt a continuing budget resolution until such time as a budget is adopted. If the
219 General Tribal Council does not adopt a budget within three (3) months of the

220 adoption of the continuing budget resolution, then the Oneida Business Committee
221 shall proceed with the adoption of the Nation's budget.

222 (2) *Emergency Budget Adoption.* In the event that the Nation proclaims an
223 emergency, in accordance with the Emergency Management law, that stays in effect
224 for at least one (1) month and prevents the presentation to and adoption of the
225 budget by the General Tribal Council, the Oneida Business Committee shall adopt
226 the Nation's budget.

227 121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the
228 budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and
229 CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner
230 which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business
231 Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida
232 Business Committee shall be responsible for adopting an amendment to the budget through
233 resolution of the Nation. The Oneida Business Committee shall present notification of the budget
234 amendment at the next available General Tribal Council meeting.
235

236 **121.6. Expenditures and Assets**

237 121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to
238 expend appropriated funds in accordance with the Nation's adopted budget pursuant to the
239 Procurement Rule Handbook developed by the Purchasing Department. The authority to expend
240 funds is then necessarily delegated to other managers, including Executive Managers of the Nation
241 who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook.

242 121.6-2. *Procurement Rule Handbook.* The Purchasing Department is delegated rulemaking
243 authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule
244 Handbook which provides the sign-off process and authorities required to expend funds on behalf
245 of the Nation.

246 121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal
247 contribution may charge fees for their services to cover operational costs.

248 (a) Before charging fees for services, a program or service shall first determine the full
249 cost of providing the program or service. The full cost of providing a program or service
250 includes all costs including operation costs, overhead such as direct and indirect costs, and
251 depreciation.

252 (b) Fees and charges may cover the full cost of service or goods whenever such fee or
253 charge would not present an undue financial burden to the recipient.

254 (c) Programs and services charging fees may offer fee waivers, provided that the program
255 or service has developed a standard operating procedure which outlines fee waiver
256 eligibility and requirements.

257 121.6-4. *Unbudgeted Expenditures.*

258 (a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted
259 expenditure unless approval is granted by the Oneida Business Committee. The CFO shall
260 provide the Oneida Business Committee a written fiscal analysis and any input on the
261 potential unbudgeted expenditure. The Oneida Business Committee shall approve any
262 unbudgeted expenditure through the adoption of a resolution prior to the expenditure being
263 made by a fund unit.

264 (b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set
265 through resolution a threshold amount for unbudgeted expenditures that require

266 notification by the Oneida Business Committee to the General Tribal Council at the next
267 available General Tribal Council meeting.

268 (c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any
269 supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000)
270 or more, the Oneida Business Committee shall develop and adopt, through resolution, a
271 spending plan to guide expenditures of the supplemental funding in accordance with any
272 provided guidance for the supplemental funding and audit compliance.

273 121.6-5. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, no
274 fund unit shall obligate the Nation to make any future expenditures beyond the current budget year
275 unless the fund unit identifies, and the Oneida Business Committee approves through the adoption
276 of a resolution, the source and extent of any future funds that are recommended to be held in
277 reserve to meet that future obligation.

278 121.6-6. *Unexpended Funds.*

279 (a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds
280 shall carry over to the next fiscal year's budget, provided that such funds are required to
281 remain appropriated for the same purpose as originally budgeted until the project is
282 complete. Once a capital improvement project is complete, any remaining unexpended
283 funds shall be returned to the General Fund.

284 (b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all
285 unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years
286 out from the fiscal year in which the funds were unexpended. Such unexpended funds shall
287 be returned to the General Fund.

288 121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified
289 in the annual budget.

290 (a) Any reassignment of a loan provided by the Nation into a capital contribution shall be
291 noticed to the General Tribal Council.

292 121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual
293 budget.

294 121.6-9. *Capital Improvements.*

295 (a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee
296 shall develop, and the General Tribal Council shall approve, a capital improvement plan
297 for government services.

298 (1) The capital improvement plan for government services shall cover a period of
299 five (5) to ten (10) years and shall include any risks and liabilities.

300 (2) The capital improvement plan for government services shall be reassessed once
301 every five (5) years. The Oneida Business Committee shall provide a status report
302 and recommendation for any improvements that have not been completed or that
303 have been modified at the time of the reassessment.

304 (b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises
305 may be brought forward as needed, provided that the Oneida Business Committee shall
306 approve all capital improvement plans for enterprises.

307 (c) *Capital Improvement Plan Implementation.* Capital improvement plans for
308 government services and enterprises shall be implemented, contingent on available funding
309 capacity.

310

311 **121.7. Grants**

312 121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable
313 grant requirements and guidelines of the granting agency.

314 (a) Grant funds may be utilized for, but not limited to, the following:

315 (1) purchases;

316 (2) travel;

317 (3) training;

318 (4) hiring grant required positions;

319 (5) incentives and retention efforts; and

320 (6) any other requirements attached to the funds as a condition of the Nation's
321 acceptance of the grant funds.

322 (b) Grant funds may be utilized for an expenditure even when other policies of the Nation
323 do not allow for Tribal contribution to make that same expenditure, if only grant funds are
324 utilized for the expenditure and all requirements or obligations of the grant are met.
325 Provided that, grant funds may be subject to the requirements of the budget contingency
326 plan and any cost containment initiatives adopted by the Oneida Business Committee.

327 121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as
328 applicable to a function for which the Nation's funds have also been appropriated, those grant
329 funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed
330 to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the
331 grant funds that provide otherwise.

332 121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit
333 which receives grant funding shall submit a status report of the grant funding received to the
334 Oneida Business Committee. The status report shall include, but not be limited to:

335 (a) information on the progress of the utilization of the grant funds;

336 (b) the number of employees the grant funding supports fully or partially; and

337 (c) compliance with obligations of the grant funding.

338 121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant
339 Reserve Fund account within the ownership investment report to be used to pre-fund the
340 expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund,
341 that is fully funded with separately identified cash resources.

342 (a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business
343 Committee shall approve, the level of funds required in the Grant Reserve Fund account
344 relative to the scale of grant dollars we receive on an annual basis.

345 (b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account
346 until the established level has been achieved.

347 121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is
348 eliminated, then the position shall be eliminated. To transition a position from grant funding to
349 being funded through the Nation's budget, a manager shall follow the standard procedure for
350 seeking the development and approval of a new position in the Nation's annual budget and labor
351 allocations.

352
353 **121.8. Debts**

354 121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with
355 sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws,
356 rules, and policies applicable to the credit agreement.

357 (a) Any debt instrument utilized by the Nation shall not exceed the life of what is being
358 encumbered.

359 121.8-2. *Acquisition of Debt.* Any debt underwritten by the Nation for ten million dollars
360 (\$10,000,000) or more shall be noticed to the General Tribal Council at the next available meeting
361 prior to the execution of the credit agreement encumbering all pledges of repayment.

362 (a) If emergency circumstances exist which prevents the notice of the acquisition of debt
363 to the General Tribal Council, the Oneida Business Committee may proceed with the
364 acquisition of debt.

365 121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing
366 of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit
367 default.

368 121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with
369 effective budget management and financial control.

370 (a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed the
371 acceptable range as defined by low-risk debt financing options at the specific financial
372 institution.

373 (b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained
374 at the acceptable range as defined by low-risk debt financing options at the specific
375 financial institution.

376 121.8-5. *Corporate Debt.* The Nation shall not be obligated to any debt obligations of its corporate
377 entities.

378

379 **121.9. Employment and Labor Allocations**

380 121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-
381 time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee
382 shall have the authority to approve this employment cap, and any amendments thereto, through the
383 adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business
384 Committee.

385 (a) Employment positions that are fully funded through grants shall not be included in the
386 employment cap.

387 (b) The Nation shall not exceed the number of FTE employees identified in the
388 employment cap.

389 121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive
390 Human Resources Director shall utilize the Nation's employment cap to develop a labor
391 allocations list. The labor allocations list shall identify the number of FTE employees each
392 employment area of the Nation is allocated. The Oneida Business Committee shall have the
393 authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a
394 resolution. The Oneida Business Committee shall review the labor allocations list on an annual
395 basis.

396 (a) The total number of FTE employees identified in the labor allocations list shall not
397 exceed the Nation's employment cap.

398 (b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director
399 shall develop a standard operating procedure which identifies a process for the
400 consideration of requests to revise the labor allocations list. The Oneida Business
401 Committee shall approve this standard operating procedure, and any amendments thereto,
402 through the adoption of a resolution.

403 121.9-3. *Unbudgeted Positions*. Any position which has not been specifically budgeted for and
404 included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved
405 positions shall not be transferrable in any form.

406 (a) *Exception*. The Oneida Business Committee may authorize an unbudgeted position for
407 a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis
408 and any input on the potential unbudgeted position. The Oneida Business Committee shall
409 authorize the unbudgeted position through the adoption of a resolution.

410

411 **121.10. Budget Contingency Planning**

412 121.10-1. *Budget Contingency Plan*. The Oneida Business Committee shall work with the CFO,
413 Executive Managers, and managers to create a budget contingency plan which provides a strategy
414 for the Nation to respond to extreme financial distress that could negatively impact the Nation.

415 (a) Extreme financial distress includes, but is not limited to:

- 416 (1) natural or human-made disasters;
- 417 (2) United States Government shutdown;
- 418 (3) emergency proclamations; and
- 419 (4) economic downturns.

420 (b) The Oneida Business Committee shall approve the budget contingency plan, and any
421 amendments thereto, through the adoption of a resolution.

422 121.10-2. *Cost Saving Tools*. As part of the budget contingency plan, the Oneida Business
423 Committee may require the use of cost saving tools, provided that the use of such complies with
424 all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the
425 following:

- 426 (a) stabilization funds;
- 427 (b) reductions of expenditures;
- 428 (c) furloughs; and
- 429 (d) layoffs.

430 121.10-3. When the Oneida Business Committee determines that the Nation is under extreme
431 financial distress, the Oneida Business Committee shall be responsible for implementing the
432 budget contingency plan.

433 121.10-4. *Permanent Executive Contingency Fund Account*. The Oneida Business Committee
434 shall maintain a Permanent Executive Contingency Fund account within the ownership investment
435 report to be used to prevent default on debt and to sustain operations during times of extreme
436 financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

437 (a) The Permanent Executive Contingency Fund account shall consist of a minimum
438 reserve of one (1) year of operating expenses to ensure continuity of business for the
439 Nation.

440 (b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business
441 Committee shall approve through the adoption of a resolution, the percentage of the annual
442 budget that shall be set aside in the Permanent Executive Contingency Fund account until
443 the established level has been achieved.

444 (c) Funds in the Permanent Executive Contingency Fund account may only be used when
445 the Oneida Business Committee has determined that the Nation is under extreme financial
446 distress for the following purposes and only to the extent that alternative funding sources
447 are unavailable:

- 448 (1) payments to notes payable to debt service, both principal and interest, and
449 applicable service fees;
450 (2) employee payroll, including all applicable taxes;
451 (3) payments to vendors for gaming and retail;
452 (4) payments to vendors for governmental operations;
453 (5) payments to any other debt; and
454 (6) to sustain any of the Nation's other operations during implementation of the
455 budget contingency plan.
456

457 **121.11. Reporting**

458 121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly
459 operational reports from direct reports to the Oneida Business Committee in accordance with the
460 Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee
461 meeting held for the acceptance of such reports.

462 (a) The Treasurer's monthly reports shall include revenue and expense summaries.

463 121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall
464 report on all receipts and expenditures and the amount and nature of all funds in their possession
465 and custody, at the annual and semi-annual General Tribal Council meetings, and at such other
466 times as requested by the General Tribal Council or the Oneida Business Committee.

467 (a) The Treasurer reports shall include an independently audited annual financial statement
468 that provides the status or conclusion of all the receipts and debts in possession of the
469 Treasurer including, but not limited to, all corporations owned in full or in part by the
470 Nation.

471 121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent
472 comprehensive performance audits, in accordance with the Nation's Audit law, the Financial
473 Accounting Standards Board (FASB) and the Governmental Accounting Standards Board
474 (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida
475 Business Committee or Internal Audit Department. Each fund unit shall offer its complete
476 cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems
477 necessary, contract with an independent audit firm to conduct such audits.
478

479 **121.12. Enforcement**

480 121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply
481 with and enforce this law to the greatest extent possible.

482 (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit
483 which does not comply with the budget schedule or guidelines. A list of any fund units of
484 an elected entity which did not comply with the budget schedule or guidelines shall be
485 included in the annual report to the General Tribal Council.

486 121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement
487 tools provided by the Nation's laws and policies including, but not limited to, those related to
488 employment with the Nation, conflicts of interest, ethics, and removal from an elected position.

489 121.12-3. *Civil or Criminal Charges.* This law shall not be construed to preclude the Nation from
490 pursuing civil or criminal charges under applicable law. Violations of applicable federal or state
491 civil or criminal laws, or any laws of the Nation, may be pursued in a court having jurisdiction
492 over any such matter.
493

494 *End.*
495 Adopted – BC-02-08-17-C
496 Emergency Amended – BC-11-24-20-E
497 Emergency Amended – BC-05-12-21-C
498 Emergency Extension – BC-11-10-21-B
499 Amended – BC-05-11-22-B
500 Emergency Amended – BC-__-__-__-__

October 20 2022 Legislative Operating Committee E-Poll Approval of the LOC and LRO FY23 Annual Reports

E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



LOC

To: David P. Jordan; Daniel P. Guzman; Jennifer A. Webster; Kirby W. Metoxen; Ethel M. Cornelius
Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

Vote by clicking Vote in the Respond group above.
This message was sent with High importance.

Reply Reply All Forward

Thu 10/20/2022 1:12 PM



2023 Annual Report - Legislative Operating Committee.pdf
382 KB



2023 Annual Report - Legislative Reference Office.pdf
256 KB

Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for the approval of the Legislative Operating Committee and Legislative Reference Office Fiscal Year 2023 Annual Reports.

EXECUTIVE SUMMARY

The Oneida Constitution requires the Oneida Business Committee to report to the General Tribal Council twice per year - during the annual and semi-annual meetings. The intent of this reporting is to provide members of the Nation with information about the Nation's achievements and how these achievements relate to the dollars spent in each area. All entities of the Nation are required to provide a report. The Annual Reports include information such as:

- Upcoming strategic goals for FY23;
- Who you serve or what service is provided;
- Employee numbers, board members and titles;
- Budget information, such as amounts of tribal contribution, grants, and other sources and total expected budget for FY23;
- Stipend information, if any or applicable; and
- Contact information & additional information as required by General Tribal Council directive, as necessary,

Attached to this e-poll please find the following materials:

- Legislative Operating Committee Fiscal Year 2023 Annual Report; and
- Legislative Reference Office Fiscal Year 2023 Annual Report.

The LOC is now being asked to approve by e-poll the Legislative Operating Committee Fiscal Year 2023 Annual Report and the Legislative Reference Office Fiscal Year 2023 Annual Report so that both reports may be forwarded to the Nation's Secretary.

An e-poll is necessary for this matter because the next Legislative Operating Committee meeting is not until November 2, 2022, and the Fiscal Year 2023 Annual Reports are due to the Nation's Secretary on October 28, 2022. The Legislative Operating Committee could not include these reports on the October 19, 2022, meeting agenda because the Legislative Operating Committee was waiting to receive Fiscal Year 2022 expense and revenue information for the Legislative Reference Office.

REQUESTED ACTION

- Approve the Legislative Operating Committee Fiscal Year 2023 Annual Report and the Legislative Reference Office Fiscal Year 2023 Annual Report and forward to the Secretary.

DEADLINE FOR RESPONSE

October 20, 2022 at 4:30 p.m.

All supporting documentation has been attached to this email for your convenience.



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

E-POLL RESULTS:

This e-poll was approved by Marie Cornelius, Jennifer Webster, David P. Jordan, Kirby Metoxen, and Daniel Guzman King.

RE: E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



Ethel M. Cornelius
To: LOC; David P. Jordan; Daniel P. Guzman; Jennifer A. Webster; Kirby W. Metoxen
Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

[Reply](#) [Reply All](#) [Forward](#) [...](#)
Thu 10/20/2022 1:16 PM

Support.

RE: E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



Jennifer A. Webster
To: LOC; David P. Jordan; Daniel P. Guzman; Kirby W. Metoxen; Ethel M. Cornelius
Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

[Reply](#) [Reply All](#) [Forward](#) [...](#)
Thu 10/20/2022 1:40 PM

Support,
Jenny

RE: E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



David P. Jordan
To: LOC; Daniel P. Guzman; Jennifer A. Webster; Kirby W. Metoxen; Ethel M. Cornelius; David P. Jordan
Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

[Reply](#) [Reply All](#) [Forward](#) [...](#)
Thu 10/20/2022 1:40 PM

Support

Approve: E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



Kirby W. Metoxen
To: LOC

The sender responded: Approve.

[Reply](#) [Reply All](#) [Forward](#) [...](#)
Thu 10/20/2022 1:42 PM

RE: E-POLL REQUEST: Approval of the LOC and LRO FY23 Annual Reports



Daniel P. Guzman
To: Ethel M. Cornelius; LOC; David P. Jordan; Jennifer A. Webster; Kirby W. Metoxen
Cc: Clorissa N. Leeman; Kristal E. Hill; Rhiannon R. Metoxen

[Reply](#) [Reply All](#) [Forward](#) [...](#)
Thu 10/20/2022 4:28 PM

Support

2023 Annual Report

Legislative Operating Committee

Purpose: The Legislative Operating Committee’s mission is to enhance the capability of the Oneida Nation to fulfill its sovereign authority to review and enact its laws in a planned and orderly manner. The Legislative Operating Committee is supported by the Legislative Reference Office.

LOC Members

David P. Jordan, Chairman – djordan@oneidanation.org

Kirby Metoxen, Vice-Chairman – kmetox@oneidanation.org

Jennifer Webster, Member – jwebste1@oneidanation.org

Marie Cornelius, Member – esummer1@oneidanation.org

Daniel Guzman King, Member – dguzman@oneidanation.org

Budget

Funding Sources for FY-2022

TRIBAL CONTRIBUTION: 0%

GRANTS: 0%

OTHER SOURCES:

N/A

Total Budget

TOTAL BUDGET FOR FY-2022: \$0 - The Legislative Operating Committee does not have a budget. Historically, there had been an LOC budget. However, 100% of the budget was managed and spent by the Legislative Reference Office (LRO). The LOC budget was renamed “LRO” to reflect accurately that the LOC does not have a budget, but that the LRO does. Refer to the LRO’s annual report for budget information.

TOTAL EXPENDITURES FOR FY-2022: \$0

VARIANCE: 0

VARIANCE EXPLANATION: N/A

Employees

NUMBER OF EMPLOYEES TOTAL:

THE LEGISLATIVE REFERENCE OFFICE IS THE SUPPORT STAFF OF THE LEGISLATIVE OPERATING COMMITTEE AND HAS 3 EMPLOYEES.

NUMBER OF EMPLOYEES WHO ARE ENROLLED ONEIDA:

THE LEGISLATIVE REFERENCE OFFICE HAS 1 ENROLLED AND 1 DESCENDENT EMPLOYEE.

Stipends

\$0 per meeting. The Legislative Operating Committee members do not receive a stipend.

	Total dollar amount	Number of meetings.		
	paid	Regular	Special/Emergency	Hearings/Other
October 2021	\$0	2	0	0
November 2021	\$0	2	0	0
December 2021	\$0	2	0	0
January 2022	\$0	1	0	0
February 2022	\$0	2	0	0
March 2022	\$0	2	0	0
April 2022	\$0	2	0	0
May 2022	\$0	2	0	0
June 2022	\$0	2	0	0
July 2022	\$0	2	0	0
August 2022	\$0	1	0	0
September 2022	\$0	2	0	0

Accomplishments for FY-2022

ACCOMPLISHMENT #1

Prepare for and conduct Legislative Operating Committee meetings.

DURING FY22 THE LOC HELD TWENTY-TWO (22) LOC MEETINGS. IN ADDITION TO ATTENDING THE MEETINGS IN PERSON, THE LOC ALLOWS EMPLOYEES AND COMMUNITY THE OPPORTUNITY TO PARTICIPATE IN LOC MEETINGS THROUGH MICROSOFT TEAMS. RECORDINGS OF THE MEETINGS ARE MADE AVAILABLE ON THE NATION'S WEBSITE AFTER THE MEETING CONCLUDES.

ACCOMPLISHMENT #2

Research, analyze, and draft proposed laws and amendments to existing laws.

DURING FY22 THE LOC SUCCESSFULLY COMPLETED LEGISLATIVE ACTIONS ON SIXTEEN (16) LAWS OF THE NATION. THE LEGISLATIVE ACTIONS INCLUDED THE ADOPTION OF NEW LAWS, AMENDMENT OF CURRENT LAWS, AND EMERGENCY AMENDMENTS OF CURRENT LAWS. CURRENTLY, THE LOC HAS THIRTY-EIGHT (38) LEGISLATIVE ITEMS ON ITS ACTIVE FILES LIST.

ACCOMPLISHMENT #3

Gather input from community and stakeholders during the legislative process.

DURING FY22 THE LOC HELD ONE HUNDRED AND SIX (106) WORK MEETINGS, MANY OF WHICH WERE HELD IN COLLABORATION WITH VARIOUS AREAS WITHIN THE NATION’S ORGANIZATION THAT HAVE AN INTEREST OR ARE AFFECTED BY LEGISLATION. THE LOC ALSO HELD NINE (9) PUBLIC MEETINGS AND/OR PUBLIC COMMENT PERIODS TO PROVIDE MEMBERS OF THE COMMUNITY THE OPPORTUNITY TO PROVIDE INPUT ON PROPOSED LEGISLATION.

Goals for FY-2023

GOAL 1

Efficiently and effectively hold Legislative Operating Committee meetings.

Advancing On^yote?a.ka Principles

GOAL 2

Research, analyze, and draft proposed laws and amendments to existing laws.

Exercising Sovereignty

GOAL 3

Increase participation in the legislative process by the community as well as departments and areas within the Nation.

Promoting Positive Community Relations

Meetings

Held every 1st and 3rd Wednesday of the month.

Meeting Location: Norbert Hill Center, N7210 Seminary Road, Oneida, WI – Business Committee Conference Room & Microsoft Teams

Meeting Time: 9:00 a.m.

Meetings are OPEN.

Contact

MAIN CONTACT: David P. Jordan

MAIN CONTACT TITLE: Legislative Operating Committee Chairman

MAIN PHONE: (920) 869-4483

MAIN EMAIL: LOC@oneidanation.org

MAIN WEBSITE: www.oneida-nsn.gov/LOC and www.oneida-nsn.gov/Register

Pictures



Legislative Operating Committee

From Left to Right:
Kirby Metoxen, Jennifer Webster,
David Jordan, Daniel Guzman King,
Marie Summers

2023 Annual Report

Legislative Operating Committee

Legislative Reference Office

Purpose: Provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects On'nyote'a:ka values, builds upon the Nation's strong foundation, and reaffirms our inherent sovereignty.

Who we serve

The Legislative Reference Office serves and supports the Legislative Operating Committee, who then serve any area within the Nation's organization and the Oneida community at-large.

Budget

Funding Sources for FY-2022

TRIBAL CONTRIBUTION:	100%
GRANTS:	0%
OTHER SOURCES:	
N/A	

Total Budget

TOTAL BUDGET FOR FY-2022:	\$553,729
TOTAL EXPENDITURES FOR FY-2022:	\$348,270
VARIANCE:	\$205,459

VARIANCE EXPLANATION: Positive variance of \$205,459 due to the Legislative Reference Office not being fully staffed during the first six (6) months of FY22, and savings on supplies and materials and other costs.

Employees

NUMBER OF EMPLOYEES TOTAL:	3
NUMBER OF EMPLOYEES WHO ARE ENROLLED ONEIDA:	1 ENROLLED – 1 DESCENDENT

Contact

MAIN CONTACT: Clorissa N. *[Santiago]* Leeman

MAIN CONTACT TITLE: Senior Staff Attorney

MAIN PHONE: (920) 869-4417

MAIN EMAIL: csantia1@oneidanation.org or LOC@oneidanation.org

MAIN WEBSITE: www.oneida-nsn.gov/LOC and www.oneida-nsn.gov/Register



Legislative Operating Committee FY2022 Fourth Quarter Report

Work completed July 1, 2022 – September 30, 2022

Active Files List As of 9/30/2022

Name of Legislation	Development	Public Input	GTC/OBC Consideration or Adoption
Audit Committee Bylaws Amendments			●
Back Pay Law Amendments	●		
Budget Management and Control Law Amendments			●
Business Corporations Law	●		
Children's Code Amendments			●
Code of Ethics Law Amendments	●		
Community Support Fund Law Amendments	●		●
Credit Collections Law Amendments	●		
Drug and Alcohol-Free Law for Elected and Appointed Officials	●		
Drug and Alcohol Free Workplace Law Amendments	●		
Early Return to Work Law Emergency Amendments <i>Emerg. Expired 11/12/21</i>			●
Election Law Emergency Amendments <i>Emerg. Expired 10/28/21</i>			●
Election Law Emergency Amendments <i>Emerg. Expires 1/13/23</i>			●
Elder Assistance Program Law			●
Emergency Management and Homeland Security Law Amendments			●
Emergency Management Law Emergency Amendments <i>Emerg. Expires 3/14/23</i>			●
Endowments Law	●		
Environmental Review Law	●		
Eviction and Termination Law	●		
Fire Signs Law	●		
Furlough Law Amendments			●
GTC Meeting Stipends Payment Policy Emergency Amendments <i>Emerg. Expired 4/8/21</i>			●
Guardianship Law	●		
Industrial Hemp Law			●
Investigative Leave Policy Amendments	●		
Law Enforcement Ordinance Amendments	●		
Layoff Policy Amendments	●		
Local Land Use Regulation Reimbursement Policy Repeal		●	
Marijuana Law	●		
Misappropriations of Funds Law	●		
Oneida General Welfare Law			●

Oneida Higher Education Pandemic Relief Fund Law Emergency Amendments <i>Emerg. Expired 8/24/21</i>	●
Oneida Land Trust Law	●
Oneida Language Code	●
Oneida Life Insurance Plan Law <i>Emerg. Expires 3/28/23</i>	●
Oneida Nation Arts Board Bylaws Amendments	●
Oneida Nation Assistance Fund Law <i>Emerg. Expires 12/8/22</i>	●
Oneida Nation Emergency Planning Committee Bylaws Amendments	●
Oneida Nation Veterans Affairs Committee Bylaws Amendments	●
Oneida Personnel Policies and Procedures Amendments <i>Emerg. Expires 11/11/22</i>	●
Oneida Worker’s Compensation Law Emergency Amendments <i>Emerg. Expires 11/12/21</i>	●
Oneida Trust Enrollment Committee Bylaws	●
Pandemic Relief Assistance Law <i>Emerg. Expired 5/24/21</i>	●
Pardon and Forgiveness Law Emergency Amendments <i>Emerg. Expires 4/28/22</i>	●
Pardon and Forgiveness Screening Committee Bylaws Amendments	●
Probate Law	●
Public Peace Law	●
Real Property Law Amendments	●
Recycling and Solid Waste Disposal Law Amendments	●
Sanctions and Penalties Law	●
Taxation Law	●
Traffic Law	●
Tribal Sovereignty in Data Research Law	●
Trust Scholarship Fund Policy Amendments	●
Wellness Court Law	●
Workplace Violence Law Amendments	●

Legislative Operating Committee Action on Legislative Requests

During the FY22 Fourth Quarter the Legislative Operating Committee added eight (8) legislative items to its Active Files List. One (1) request was denied during the FY22 Fourth Quarter.

Items Added to the Active Files List by the Legislative Operating Committee

On July 6, 2022, the Legislative Operating Committee added the Eviction and Termination law, Emergency Management law emergency amendments, and the Election law emergency amendments to its Active Files List.

Then on July 20, 2022, the Legislative Operating Committee added the Probate law to its Active Files List.

On September 7, 2022, the Legislative Operating Committee added the Oneida Life Insurance Plan law, the Trust Scholarship Fund Policy Amendments, and the Drug and Alcohol Free Workplace Law Amendments to the Active Files List.

On September 21, 2022, the Legislative Operating Committee added the Back Pay law amendments to the Active Files List.

Items Denied from the Active Files List by the Legislative Operating Committee

On July 25, 2022, the Legislative Operating Committee opposed the adoption of an e-poll to add the General Tribal Council Ten Day Notice Policy emergency amendments to the Active Files List.

FY22 Fourth Quarter Legislative Accomplishments

The Legislative Operating Committee brought forward the following legislation for adoption or amendment during the FY22 Fourth Quarter:

Elder Assistance Program Law

The Oneida Business Committee adopted the Elder Assistance Program law on July 13, 2022, through the adoption of resolution BC-07-13-22-A. 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]*.

The Elder Assistance Program law:

- Establishes 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]*;
- Provides how this program qualifies for general welfare exclusion. *[10 O.C. 1002.4-2]*;
- Provides 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]*;
- Provides the minimum requirements for the information that must be included on the application. *[10 O.C. 1002.5-3]*;
- Provides how and when funds from the Elder Assistance Program are disbursed *[10 O.C. 1002.5-2, 1002.5-4]*;
- Provides 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]*;
- Provides 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]*;
- Provides 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]*.

Healing to Wellness Court Law

The Oneida Business Committee adopted the Healing to Wellness Court law on July 13, 2022, through the adoption of resolution BC-07-13-22-D. The purpose of this law is to establish the Nation's Healing to Wellness Court to:

- Offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue;
- Provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho t[^] (Our Ways);
- Create intragovernmental and intergovernmental collaborative teams to interact with each participant; and
- Encourage and support each participant in the goal of recovery to lead lawful, productive lives free of substance abuse and addiction [8 O.C. 808.1-1].

The Healing to Wellness Court law:

- Establishes the Healing to Wellness Court as a division of the Trial Court and delegate jurisdiction to the Healing to Wellness Court for matters related to substance abuse and addiction, and any matter arising under this law [8 O.C. 808.4-1, 808.4-2];
- Delegates authority to the Healing to Wellness Court to collaborate and enter into intergovernmental agreements with other courts of competent jurisdiction that exercise concurrent jurisdiction [8 O.C. 808.4-2];
- Establishes the Healing to Wellness Court team, comprised of a Trial Court Judge, Court Coordinator, Oneida Police Department Officer, representative from Probation, Substance Abuse Treatment provider, representative of Oneida culture and heritage, and any other member as determined by the Team, and provide how any revisions to the composition of the Healing to Wellness Court team are made [8 O.C. 808.4-3];
- Delegates authority to the Healing to Wellness Court to establish policies and procedures governing the operation and implementation of the Healing to Wellness Court program [8 O.C. 808.5-1];
- Provides that all Healing to Wellness Court Team meetings and hearings are closed to the public, and held in accordance with the policies and procedures created by the Court [8 O.C. 808.5-2, 808.5-3]; an
- Provides that the Healing to Wellness Court is a non-adversarial forum, not a court of record, where the Oneida Judiciary Rules of Evidence and Civil Procedure do not apply [8 O.C. 808.5-4, 808.5-6, 808.5-7].

Election Law Emergency Amendments

The Oneida Business Committee adopted emergency amendments to the Election law on July 13, 2022, through the adoption of resolution BC-07-13-22-E. The purpose of the Election law is to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1].

The emergency amendments to the Election law reduced the number of Election Board members required to sign the election totals of machine counted ballots from six (6) to three (3) members. [1 O.C. 102.10-2].

The emergency adoption of amendments to the Election law was necessary for the preservation of the general welfare of the Reservation population in order to ensure that the 2022 Special Election could occur in accordance with the requirements of the Election law. Observance of the requirements under the Legislative Procedures Act for adoption of these emergency amendments

was contrary to public interest since the process and requirements of the Legislative Procedures Act could not be completed in time to allow the Nation to hold the 2022 Special Election on July 16, 2022.’

The emergency amendments to the Election law will expire on January 13, 2023.

Children’s Code Amendments

The Oneida Business Committee adopted amendments to the Children’s Code on September 14, 2022, through the adoption of resolution BC-09-14-22-A. The purpose of this law is to provide for the welfare, care, and protection of Oneida children through the preservation of the family unit, while recognizing that in some circumstances it may be in the child’s best interest to not be reunited with his or her family. Furthermore, this law strengthens family life by assisting parents in fulfilling their responsibilities as well as facilitating the return of Oneida children to the jurisdiction of the Nation and acknowledging the customs and traditions of the Nation when raising an Oneida child. [7 O.C. 708.1-1].

The Children’s Code amendments:

- Provide that any orders made by the Court under this law, or any orders made by a court of competent jurisdiction regarding child welfare matters, shall supersede any other order made by this Court or a court of competent jurisdiction regarding custody or placement of a child until the Children’s Code or other child welfare orders are dismissed [7 O.C. 708.5-6];
- Provide that the Department may enter into a protective plan with a family [7 O.C. 708.7-1(f)];
- Update the general notice provisions in the Children’s Code, as well as notice provisions throughout the Children’s Code to provide greater clarification on providing notice in child welfare matters [7 O.C. 708.12];
- Allow the Department to withhold the placement provider’s identifying information from the child’s parent, guardian, or legal custodian if there are reasonable grounds to believe that disclosure would result in imminent danger to the child or anyone else, but that a parent, guardian, or legal custodian may request judicial review of the decision to withhold the identifying information [7 O.C. 708.12-4];
- Provide clarification on how a matter is referred to the Oneida Nation Child Support Agency for initiating a paternity action, and allow the Department may sign documents required by the Oneida Nation Child Support Agency on behalf of the family for the limited purpose of initiating a paternity action [7 O.C. 708.13-3];
- Provide that the Department shall make available for inspection or disclosure the contents of any record kept, regardless of the originating source, to a guardian ad litem appointed in a Children’s Code or family law case when that access is granted by order of the Court. [7 O.C. 708.14-2];
- Allow the Department to make an ex parte request to the Court to conduct an in-camera review to determine what information should and should not be released to the parties and their counsel [7 O.C. 708.14-7];
- Allow a child to be held in custody in a hospital or other medical or mental health facility [7 O.C. 708.15-6(f)];

- Provide information that may be, but is not required to be, included in the Court’s order to hold a child in custody [7 O.C. 7008.16-6(b)];
- Allow the Department to request the placement of the child outside of the child’s home at the plea hearing [7 O.C. 708.19-5];
- Allow for the suspension of parental rights in addition to the termination of parental rights [7 O.C. 708.32];
- Update the continuing need of protection or services ground for involuntary suspension or termination of parental rights to be consistent with recent revisions to State statute [7 O.C. 708.34-1(c)];
- Provide information that may be, but is not required to be, included in the Court’s order of disposition for the suspension or termination of parental rights [7 O.C. 708.40-4(c)];
- Clarify that an adoption under this law shall take the form of customary adoption when the Court has granted a petition to suspend parental rights, and take the form of a closed adoption when the Court has granted a petition to terminate parental rights [7 O.C. 708.41-1];
- Allow the Department to contract with a third-party agency to conduct an adoption investigation that may have been ordered by the Court [7 O.C. 708.43-3(b)]; and
- Make other minor drafting revisions throughout the Children’s Code.

Emergency Management Law Emergency Amendments

The Oneida Business Committee adopted emergency amendments to the Emergency Management law on September 14, 2022, through the adoption of resolution BC-09-14-22-B. The purpose of the Emergency Management law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; to provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; to establish the use of the National Incident Management System (NIMS); and to designate authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].

The emergency amendments to the Emergency Management law:

- Eliminate the Oneida Nation Emergency Planning Committee and replace it with an Emergency Management Operations Team. [3 O.C. 302.5-1];
- Provide that members of the Emergency Management Operations Team shall attend meetings, or send a designee in their absence, and comply with any training requirements set forth by the Emergency Management Director. [3 O.C. 302.5-3];
- Require that within forty-eight (48) hours of an emergency, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an emergency briefing to be presented to the Oneida Business Committee regarding the status of the emergency, actions taken to address the emergency, and the activation of the Emergency Response Plan. [3 O.C. 302.8-4];
- Allow the Oneida Business Committee to direct the Emergency Management Director to provide additional emergency briefings to the Oneida Business Committee. [3 O.C. 302.8-4];
- Require that within thirty (30) days of an emergency subsiding, unless additional time is granted by the Oneida Business Committee, the Emergency Management Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, a preliminary

emergency assessment report to be presented to the Oneida Business Committee, any interested entity, and the public. [3 O.C. 302.8-5]; and

- Extend the amount of time for the Emergency Management Director to prepare and present an after-action report to the Oneida Business Committee, any interested entity, and the public, from sixty (60) days to ninety (90) days. [3 O.C. 302.8-6].

The emergency amendments to the Emergency Management law will expire on March 14, 2023.

Oneida Life Insurance Plan Law

The Oneida Business Committee adopted the Oneida Life Insurance Plan law on an emergency basis on September 28, 2022, through the adoption of resolution BC-09-28-22-C. The purpose of the Oneida Life Insurance Plan law is to provide a death benefit of fifteen thousand dollars (\$15,000) through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.[10 O.C. 1004.1-1].

The Oneida Life Insurance Plan law:

- Establishes the Oneida Life Insurance Plan as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1004.4-1];
- Provides how this program qualifies for general welfare exclusion. [10 O.C. 1004.4-2];
- Provides that all members of the Nation shall qualify for benefits from the Oneida Life Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a designated beneficiary. [10 O.C. 1004.5-1];
- Requires that a member of the Nation complete the Oneida Trust Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary. [10 O.C. 1004.5-2];
- Provides that funeral expenses shall be paid directly to the funeral home upon submission of a valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated beneficiary has not been designated – but the Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent did not designate a living beneficiary through the beneficiary designation form. [10 O.C. 1004.5-2(b), 1004.5-2(e)];
- Allows for a one hundred eighty (180) day grace period after the effective date of this law, where section 1004.5-2 shall not be enforced to permit members of the Nation to complete and submit the required beneficiary forms. [10 O.C. 1004.5-2(c)];
- Requires that the Oneida Trust Enrollment Department be notified within one (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. [10 O.C. 1004.5-3];
- Provides that the Trust Enrollment Department is the department that has the responsibilities to oversee and administer the Oneida Life Insurance Plan. [10 O.C. 1004.5-4];
- Provides rules related to the determination of death and status. [10 O.C. 1004.6-1];
- Prohibits a designated beneficiary who criminally and intentionally causes the death of the decedent from being entitled to any benefits passing under this law. [10 O.C. 1004.6-2];
- Provides how the Oneida Life Insurance Plan benefits shall be distributed. [10 O.C. 1004.6-3]; and

- Provides that the Oneida Life Insurance Plan shall be contingent on funding through the Nation's annual budget. [10 O.C. 1004.7-1].

The emergency adoption of the Oneida Life Insurance Plan law will expire on March 28, 2022.

FY22 Fourth Quarter Legislative Highlights

The Legislative Operating Committee would like to highlight its work on the following legislative items during the FY22 Fourth Quarter:

Back Pay Law Amendments

The Legislative Operating Committee held one (1) work meeting during the FY22 Fourth Quarter on the proposed Back Pay law amendments.

Business Corporations Law

The Legislative Operating Committee held two (2) work meetings during the FY22 Fourth Quarter on the proposed Business Corporations law.

Emergency Management Law Amendments

The Legislative Operating Committee held five (5) work meetings during the FY22 Fourth Quarter on the proposed Emergency Management law amendments.

Eviction and Termination Law Amendments

The Legislative Operating Committee held four (4) work meetings during the FY22 Fourth Quarter on the proposed Eviction and Termination law amendments.

Law Enforcement Ordinance Amendments

The Legislative Operating Committee held four (4) work meetings during the FY22 Fourth Quarter on the proposed amendments to the Law Enforcement Ordinance.

Marijuana Law

The Legislative Operating Committee held four (4) work meetings during the FY22 Fourth Quarter on the proposed Marijuana law.

Oneida Nation Assistance Fund Law

The Legislative Operating Committee held three (3) work meetings during the FY22 Fourth Quarter on the proposed permanent adoption of the Oneida Nation Assistance Fund law. On July 20, 2022, the Legislative Operating Committee approved the draft and legislative analysis for the permanent adoption of the Oneida Nation Assistance Fund law. On August 3, 2022, the Legislative Operating Committee approved the public meeting packet, with updated public meeting notice, and forwarded the Oneida Nation Assistance Fund law to a public meeting to be held on September 2, 2022. On September 2, 2022, the public meeting was held. No individuals provided public comment during the public meeting. The public comment period was then held open until September 12, 2022. One (1) submission of written comments was received during the public comment period. On September 21, 2022, the Legislative Operating Committee accepted the public comments and the public comment review memorandum and deferred these items to a work meeting for further consideration.

Oneida Nation Emergency Planning Committee Bylaws Amendments

The Legislative Operating Committee held one (1) work meeting during the FY22 Fourth Quarter on the proposed Oneida Nation Emergency Planning Committee bylaws amendments.

Oneida Personnel Policies and Procedures Amendments

The Legislative Operating Committee held two (2) work meetings during the FY22 Fourth Quarter on the proposed amendments to the Oneida Personnel Policies and Procedures.

Real Property Law Amendments

The Legislative Operating Committee held two (2) work meetings during the FY22 Fourth Quarter on the proposed amendments to the Real Property law.

Traffic Law

The Legislative Operating Committee held two (2) work meetings during the FY22 Fourth Quarter on the proposed Traffic law.

Workplace Violence Law Amendments

The Legislative Operating Committee held three (3) work meetings during the FY22 Fourth Quarter on the proposed amendments to the Workplace Violence law.

FY22 Fourth Quarter Legislative Operating Committee Meetings

Typically, all Legislative Operating Committee meetings are open to the public and held on the first and Fourth Wednesday of each month, at 9:00 a.m. in the Norbert Hill Center's Business Committee Conference Room.

The Legislative Operating Committee held the following meetings during the FY22 Fourth Quarter:

- July 6, 2022 – Regular meeting;
- July 20, 2022 – Regular meeting;
- August 3, 2022 – Regular meeting;
- September 7, 2022 – Regular meeting; and
- September 21, 2022 – Regular meeting.

The August 17, 2022, Legislative Operating Committee meeting was canceled.

In addition to attending the Legislative Operating Committee meetings in person, employees of the Nation are provided the opportunity to attend the Legislative Operating Committee meeting through Microsoft Teams. Additionally, any non-employee who would like to access the Legislative Operating Committee meeting through Microsoft Teams can provide their name, phone number or e-mail address to LOC@oneidanation.org by the close of business the day before a meeting of the Legislative Operating Committee to receive the link to the Microsoft Teams meeting. For those who may be unable to attend the Legislative Operating Committee meeting either in person or on Microsoft Teams, an audio recording of the Legislative Operating Committee meeting is made available on the Nation's website after the meeting concludes.

Goals for FY23 First Quarter

During the FY23 First Quarter the Legislative Operating Committee will focus its legislative efforts on the following matters:

1. Adoption of the Oneida Nation Assistance law;
2. Adoption of the amendments to the Emergency Management law;
3. Development of permanent amendments to the Oneida Personnel Policies and Procedures;
4. Development of amendments to the Workplace Violence law;
5. Development of amendments to the Investigative Leave Policy;
6. Development of the Oneida Language Code.

Legislative Reference Office

The Legislative Reference Office's mission is to provide support for the Legislative Operating Committee in developing clear and consistent legislation that reflects the Nation's values, builds upon the Nation's strong foundation, and reaffirms our inherent sovereignty. During the FY22 Fourth Quarter the Legislative Reference Office was staffed by the following individuals:

- Clorissa N. Leeman, Senior Legislative Staff Attorney.
 - Contact: csantial@oneidanation.org or (920) 869-4417
- Carolyn Salutz, Legislative Staff Attorney.
 - Contact: csalutz@oneidanation.org or (920) 869-4422
- Grace Elliot, Legislative Staff Attorney.
 - Contact: gelliott@oneidanation.org or (920) 869-4320

Legislative Operating Committee Contact Information

Feel free to contact the LOC at LOC@oneidanation.org with any questions or comments, or individual LOC members at the following:

- David Jordan, LOC Chairman
djordan1@oneidanation.org
- Kirby Metoxen, LOC Vice-Chairman
kmetox@oneidanation.org
- Jennifer Webster, LOC Member
jwebstel@oneidanation.org
- Daniel Guzman King, LOC Member
dguzman@oneidanation.org
- Marie Cornelius, LOC Member
esummer1@oneidanation.org



November 2022

November 2022

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

December 2022

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

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 30	31	Nov 1	2 8:30am LOC Prep (Microsoft) 8:30am LOC Prep (Microsoft) 9:00am LOC Meeting 1:30pm Oneida Personnel	3	4	5
6	7 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	8	9	10	11 8:00am Holiday - Veteran's Day	12
13	14 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago 1:30pm Oneida Language Code Work Meeting	15	16 8:30am LOC Prep (Microsoft Teams Meeting); 9:00am LOC Meeting (BC_Conf_Room) - LOC	17	18	19
20	21 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	22	23 8:30am Oneida Business Committee Meeting	24 8:00am Holiday - Thanksgiving	25 8:00am Holiday - Indian Day	26
27	28 9:00am LRO Staff Meeting (Legislative Reference Office) - Clorissa N. Santiago	29	30	Dec 1	2	3