



**LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**  
Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center  
January 18, 2023  
9:00 a.m.

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

**II. Minutes to be Approved**

1. January 4, 2023 LOC Meeting Minutes (pg. 2)

**III. Current Business**

1. Emergency Management Law Amendments (pg. 4)
2. Petition: M. Cornelius – Chief Financial Officer Position (pg. 32)
3. Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years (pg. 34)

**IV. New Submissions**

1. Clean Air Policy Amendments (pg. 43)

**V. Additions**

**VI. Administrative Updates**

**VII. Executive Session**

**VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
January 4, 2023  
9:00 a.m.

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

**Others Present:** Clorissa N. Leeman, Carolyn Salutz, Brooke Doxtator, Keith Doxtator, Robert Collins II, Anna Mendoza (Microsoft Teams), Grace Elliott (Microsoft Teams), Joy Salzwedel (Microsoft Teams), Carl Artman (Microsoft Teams), Chad Fuss (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Katsitsiyo Danforth (Microsoft Teams), Nic Reynolds (Microsoft Teams), Shannon Davis (Microsoft Teams), Tina Jorgenson (Microsoft Teams), Todd VandenHeuvel (Microsoft Teams), Kaylynn Gresham (Microsoft Teams), Tracy Smith (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Peggy Van Gheem (Microsoft Teams), Michelle Tipple (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Rae Skenandore (Microsoft Teams), Bryce Elm (Microsoft Teams), Elijah Metoxen (Microsoft Teams), Mark Powless (Microsoft Teams)

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

David P. Jordan called the January 4, 2023, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Cornelius to adopt the agenda as is; seconded by Daniel Guzman King. Motion carried unanimously.

**II. Minutes to be Approved**

**1. December 21, 2022 LOC Meeting Minutes**

Motion by Marie Cornelius to approve the December 21, 2022, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

**III. Current Business**

**1. Drug and Alcohol Free Workplace Law Amendments**

Motion by Jennifer Webster to approve the public meeting packet for the proposed amendments to the Drug and Alcohol Free Workplace law and schedule a public meeting to be held on February 15, 2022; seconded by Kirby Metoxen. Motion carried unanimously.



**2. Emergency Management Law Amendments**

Motion by Jennifer Webster to accept the public comment review memorandum identifying no public comments were received; seconded by Marie Cornelius. Motion carried unanimously.

**IV. New Submissions****1. Elder Abuse Code**

Motion by Jennifer Webster to add the Elder Protection law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Cornelius. Motion carried unanimously.

**V. Additions****VI. Administrative Items****VII. Executive Session****VIII. Adjourn**

Motion by Marie Cornelius to adjourn at 9:12 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee  
January 18, 2023

# Emergency Management Law Amendments

<b>Submission Date:</b> 7/6/22	<b>Public Meeting:</b> 12/13/22
<b>LOC Sponsor:</b> Marie Cornelius	<b>Emergency Enacted:</b> 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, 2023.

**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.
- 11/2/22 LOC:** Motion by Kirby Metoxen to approve the public meeting packet and forward the Emergency Management law amendments to a public meeting to be held on December 13, 2022; seconded by Marie Cornelius. Motion carried unanimously.
- 11/4/22:** *Work Meeting.* Present: David P. Jordan, Clorissa N. Leeman, Louise Cornelius, Mark Powless, Kaylynn Gresham, Debra Powless, Chad Fuss, Lucy Neville, Lawrence Barton. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the draft of the Emergency Management Operations Team SOP.
- 12/13/22:** *Public Meeting Held.* Present: Kirby Metoxen, Clorissa N. Santiago, Carolyn Salutz, Brooke Doxtator, David P. Jordan (Microsoft Teams), Carrie Lindsey (Microsoft Teams), Joy Salzwedel (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Rachel Fitzpatrick (Microsoft Teams), Tina Jorgensen (Microsoft Teams), Melanie Burkhart (Microsoft Teams), Grace Elliot (Microsoft Teams), Brenda Haen (Microsoft Teams), Debra Santiago (Microsoft Teams), Kristal Hill (Microsoft Teams), Matt Denny (Microsoft Teams), Ronald Vanschindel (Microsoft Teams), Wendy Alvarez (Microsoft Teams), Stefanie Reinke (Microsoft Teams), Jay Kennard (Microsoft Teams), Sidney White (Microsoft Teams). The public meeting for the Emergency Management law amendments was held in person in the Norbert Hill Center and on Microsoft Teams. No individuals provided public comment during the public meeting.

**12/14/22 OBC:** Motion by Jennifer Webster to approve the Oneida Nation Standard Operating Procedure (SOP) entitled Emergency Management Law – Emergency Management Operations Team with the addition of Chief Information Officer under 3.1 of the SOP, seconded by David P. Jordan. Motion carried.

**12/20/22:** *Public Comment Period Closed.* No submissions of written comments were received during the public comment period.

**1/4/23 LOC:** Motion by Jennifer Webster to accept the public comment review memorandum identifying no public comments were received; seconded by Marie Cornelius. Motion carried unanimously.

**Next Steps:**

- Approve the draft, legislative analysis, and fiscal impact statement review memorandum, and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by February 15, 2023.

**Title 3. Health and Public Safety – Chapter 302**  
**Yotlihokté Olihwa'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. <del>Oneida Nation</del> Emergency <del>Planning Committee</del> <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~~, amended by resolution BC-12-20-06-G, BC-05-13-09-F, ~~and~~ BC-03-10-21-A-, and BC- - -.

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



conditions, and including death.

(b) “Communicable disease” means any disease transmitted from one person or animal to another directly by contact with excreta or other discharges from the body, or indirectly via substances or inanimate objects that may cause a public health emergency.

(c) “Community/Public Health Officer” means an agent of the Comprehensive Health Division, or his or her designee(s), who is responsible for taking the appropriate actions in order to prevent a public health emergency from occurring on the Reservation.

(d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division, which is authorized to issue compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.

(e) “Director” means the Director of the Nation’s Emergency Management Department.

(f) “Emergency” means a situation that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

(g) “Emergency Management Network” means the entities, volunteers, consultants, contractors, outside agencies, and any other resources the Nation may use to facilitate inter-agency collaboration, identify and share resources, and better prepare for local incidents and large-scale disasters.

(h) “Emergency Response Plan” means the plan established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the Reservation.

(i) “Entity” means any agency, board, committee, commission, or department of the Nation.

(j) “Fair Market Value” means the everyday cost of a product in an ordinary market, absent of a disaster.

(k) “Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others.

(l) “Nation” means the Oneida Nation.

(m) “National Incident Management System” or “NIMS” means the system mandated by Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that provides a consistent nationwide approach for federal, state, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

~~(n) “Oneida Nation Emergency Planning Committee” means the committee that assists the Director in the implementation of this law.~~

~~(o)~~ (n) “Proclaim” means to announce officially and publicly.

~~(p)~~ (o) “Public Health Emergency” means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among



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2022 10 05

humans; or

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

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

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

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

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

#### **302.4. Emergency Management Department**

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

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

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

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

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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

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

- (a) Request the Director to take the necessary steps to have a public health emergency proclaimed;
- (b) Quarantine, isolate, or take other communicable disease control measures upon an individual(s); and
- (c) Issue any mandate, order, and/or require restrictions which may limit the spread of any communicable disease to any individual, business, or the general population of the Reservation.

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

- (a) If an individual is infected with a communicable disease and the Community/Public Health Officer determines it is necessary to limit contact with the individual, all persons may be forbidden from being in direct contact with the infected individual, except for those persons having a special written permit from the Community/Public Health Officer.
- (b) Any individual, including an authorized individual, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this law.
- (c) When the Community/Public Health Officer deems it necessary that an individual be quarantined, isolated, or otherwise restricted in a separate place, the Community/Public Health Officer shall have that individual removed to such a designated place, if it can be done without danger to the individual's health.

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

- (a) organize the vaccination of individuals;
  - (1) The following types of individuals shall not be subject to a vaccination:
    - (A) an individual who the vaccination is reasonably likely to lead to serious harm to the individual; and
    - (B) an individual, for reason of religion or conscience, refuses to obtain the vaccination.
- (b) isolate or quarantine individuals, including those who are unable or unwilling to receive a vaccination; and
- (c) prevent any individual, except for those individuals authorized by the Community/Public Health Officer, from entering an isolation or quarantine premises.

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

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

Draft 1 (Redline to Last Permanent)  
2022 10 05

### 302.8. Proclamation of an Emergency

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

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

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

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

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

302.8-4. *Emergency Briefings.* Within forty-eight (48) hours of an emergency, the 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. The Oneida Business Committee may direct the Director to provide additional emergency briefings.

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

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

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

### 302.9. Emergency Core Decision Making Team

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

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

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

Draft 1 (Redline to Last Permanent)  
2022 10 05

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

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

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

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

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

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

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

### **302.10. Enforcement and Penalties**

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

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

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

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

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

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

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

*End.*

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 Olihwa'ke**  
*Matters that are concerning immediate attention*  
**EMERGENCY MANAGEMENT**

302.1. Purpose and Policy  
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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
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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

(b) “Communicable disease” means any disease transmitted from one person or animal to another directly by contact with excreta or other discharges from the body, or indirectly via substances or inanimate objects that may cause a public health emergency.

(c) “Community/Public Health Officer” means an agent of the Comprehensive Health Division, or his or her designee(s), who is responsible for taking the appropriate actions in order to prevent a public health emergency from occurring on the Reservation.

(d) “Comprehensive Health Division” means the Oneida Comprehensive Health Division, which is authorized to issue compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.

(e) “Director” means the Director of the Nation’s Emergency Management Department.

(f) “Emergency” means a situation that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or other worsening of the situation.

(g) “Emergency Management Network” means the entities, volunteers, consultants, contractors, outside agencies, and any other resources the Nation may use to facilitate inter-agency collaboration, identify and share resources, and better prepare for local incidents and large-scale disasters.

(h) “Emergency Response Plan” means the plan established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the Reservation.

(i) “Entity” means any agency, board, committee, commission, or department of the Nation.

(j) “Fair Market Value” means the everyday cost of a product in an ordinary market, absent of a disaster.

(k) “Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others.

(l) “Nation” means the Oneida Nation.

(m) “National Incident Management System” or “NIMS” means the system mandated by Homeland Security Presidential Directive 5 (HSPD 5) issued on February 28, 2003, that provides a consistent nationwide approach for federal, state, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

(n) “Proclaim” means to announce officially and publicly.

(o) “Public Health Emergency” means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of

Draft 1  
2022 10 05

people.

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

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

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

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

#### **302.4. Emergency Management Department**

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

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

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

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

- (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)

Draft 1  
2022 10 05

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. Emergency Management Operations Team**

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

302.5-2. *Purpose.* The Emergency Management Operations Team shall meet as necessary, 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 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.

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

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

Draft 1  
2022 10 05

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

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

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

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

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

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

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

(a) organize the vaccination of individuals;

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

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

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

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

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

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

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

### 302.8. Proclamation of an Emergency

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

Draft 1  
2022 10 05

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

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

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

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

302.8-4. *Emergency Briefings.* Within forty-eight (48) hours of an emergency, the 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. The Oneida Business Committee may direct the Director to provide additional emergency briefings.

302.8-5. *Preliminary Emergency Assessment Report.* After an emergency has subsided, the 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. This report shall be presented to the required parties no later than thirty (30) days after the emergency has subsided, unless an extension is granted by the Oneida Business Committee.

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

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

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

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

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

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

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

Draft 1  
2022 10 05

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

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

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

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

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

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

### **302.10. Enforcement and Penalties**

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

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

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

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

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

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

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

*End.*

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Adopted - BC-07-15-98-A  
Amended - BC-12-20-06-G  
Emergency Amended – BC-04-30-09-A (Influenza A (H1N1))  
Amended - BC-05-13-09-F  
Emergency Amended – BC-03-17-20-E (COVID-19)  
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-\_\_-\_\_-\_\_-\_\_





# EMERGENCY MANAGEMENT LAW AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>▪ Eliminate the Oneida Nation Emergency Planning Committee and replace it with an Emergency Management Operations Team. [3 O.C. 302.5-1];</li> <li>▪ 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];</li> <li>▪ 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];</li> <li>▪ 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];</li> <li>▪ 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];</li> <li>▪ 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].</li> </ul>
<b>Purpose</b>	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]
<b>Affected Entities</b>	Emergency Management Operations Team, Emergency Management Director, Oneida Business Committee
<b>Public Meeting</b>	A public meeting was held on December 13, 2022. The public comment period was held open until December 20, 2022.
<b>Fiscal Impact</b>	A fiscal impact statement has not yet been requested.
<b>Expiration of Emergency Legislation</b>	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

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

- Observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law were contrary to public interest since the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Emergency Management Operations Team can be established and prepared to aid in the emergency response prior to the next emergency occurring within the Nation.
- 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 emergency amendments to the Emergency Management law will expire on March 14, 2022.

### SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of the emergency amendments to this Law and legislative analysis:
- Emergency Management Department;
  - General Manager; and
  - Government Administrative Office.
- B. The following laws were reviewed in the drafting of this analysis:
- Emergency Management law; and
  - Boards, Committees, and Commissions law.

### SECTION 4. PROCESS

- A. The development of the proposed amendments to the Emergency Management law complies with the process set forth in the Legislative Procedures Act (LPA).
- On July 6, 2022, the Legislative Operating Committee added the Law to its Active Files List.
  - On September 7, 2022, the Legislative Operating Committee approved the Emergency Management law emergency amendments adoption packet and forward these materials to the Oneida Business Committee for consideration.
  - On September 14, 2022, the Oneida Business Committee adopted resolution BC-09-14-22-B entitled, *Emergency Amendments to the Emergency Management Law*.
  - On October 5, 2022, the Legislative Operating Committee approved the draft of the proposed amendments to the Emergency Management law and directed that a legislative analysis be completed.
  - On October 19, 2022, the Legislative Operating Committee approved the legislative analysis.
  - On November 2, 2022, the Legislative Operating Committee approved the public meeting packet and forwarded the Emergency Management law amendments to a public meeting to be held on December 13, 2022.
  - On December 13, 2022, the Legislative Operating Committee held a public meeting on the proposed amendments to the Law in the Norbert Hill Center's Executive Conference room as well as on Microsoft Teams. No one provided public comments during the public meeting. The public comment period was held open until December 20, 2022. No written submissions of public comments were received during the public comment period.

- 88       ▪ On January 4, 2023, the Legislative Operating Committee accepted the public comment review  
89       memorandum identifying no public comments were received.
- 90   **B.** The Legislative Operating Committee has held the following work meetings specific to the proposed  
91   emergency amendments to this Law:
- 92       ▪ July 18, 2022: Work Session with Governmental Administrative Office, General Manager, and  
93       Emergency Management Department.
- 94       ▪ August 2, 2022: Work Session with Governmental Administrative Office, General Manager, and  
95       Emergency Management Department.
- 96       ▪ August 25, 2022: Work Session with Governmental Administrative Office, General Manager, and  
97       Emergency Management Department.
- 98       ▪ August 25, 2022: LOC work session.
- 99       ▪ August 30, 2022: LOC work session with the Emergency Management Department.
- 100       ▪ October 4, 2022: Work Session with Gaming General Manager and Staff, General Manager,  
101       Finance Administration, and the Emergency Management Director.
- 102       ▪ November 4, 2022: Work session with Finance Administration, Gaming General Manager, Gaming  
103       Management, General Manager, Retail General Manager, Emergency Management Director.
- 104

## 105   **SECTION 5. CONTENTS OF THE LEGISLATION**

- 106   **A. *Emergency Management Operations Team.*** Previously the Law provided that there be an Oneida  
107   Nation Emergency Planning Committee which consisted of representatives from entities and a  
108   community representative as identified in the Oneida Nation Emergency Planning Committee bylaws  
109   as approved by the Oneida Business. The proposed amendments to the Law eliminate the Oneida Nation  
110   Emergency Planning Committee and replace it with an Emergency Management Operations Team. [3  
111   *O.C. 302.5-1*]. The Emergency Management Operations Team consists of representatives from entities  
112   as identified by the Emergency Management Director. *Id.* The purpose of the Emergency Management  
113   Operations Team remains the same as the purpose of the Oneida Nation Emergency Planning  
114   Committee, which is to assist the Emergency Management Director in drafting and maintaining the  
115   Emergency Response Plan, as well as to assist the Emergency Management Director in the  
116   implementation of any provision of the Law or any plan issued thereunder. [3 *O.C. 302.5-2*].  
117   Additionally, a new provision added to the Law sets expectations for the Emergency Management  
118   Operations Team by providing the requirement that members attend meetings, or send a designee in  
119   their absence, and comply with any training requirements set forth by the Emergency Management  
120   Director. [3 *O.C. 302.5-3*].
- 121       ▪ ***Effect.*** The proposed amendments to the Law replace the Oneida Nation Emergency Planning  
122       Committee with the Emergency Management Operations Team. This revision demonstrates  
123       that the Nation is better suited with the Emergency Management Operations Team which exists  
124       not as a board, committee, or commission of the Nation, but instead as a network of different  
125       employee positions throughout the Nation that all have a responsibility to aid in the Nation's  
126       response to emergencies. This eliminates the previous difficulty in composing this Team to  
127       meet the needs of the Nation for an emergency response since a conflict with section 105.15-3  
128       of the Boards, Committees, and Commissions law no longer exists, and the direct reports and  
129       employees of those designated areas can now participate on this Emergency Management  
130       Operations Team to achieve the best emergency response for the Nation.

- 131 **B. *Emergency Briefings.*** A new provision was added to the Law which requires that within forty-eight  
132 (48) hours of an emergency, the Emergency Management Director shall prepare, or shall work in  
133 conjunction with the appropriate entity to prepare, an emergency briefing to be presented to the Oneida  
134 Business Committee regarding the status of the emergency, actions taken to address the emergency,  
135 and the activation of the Emergency Response Plan. [3 O.C. 302.8-4]. The Oneida Business Committee  
136 may then direct the Director to provide additional emergency briefings. *Id.*
- 137     ▪ ***Effect.*** The new provision ensures that the Emergency Management Director is briefing the  
138 Oneida Business Committee on the status of the emergency, actions taken to address the  
139 emergency, and the activation of the Emergency Response Plan so that the Oneida Business  
140 Committee stays informed on an emergency occurring within the Nation in an effort to make  
141 better policy decisions and provide greater communication to the community.
- 142 **C. *Preliminary Emergency Assessment Report.*** A new provision was added to the Law which requires  
143 that after an emergency has subsided, the Director shall prepare, or shall work in conjunction with the  
144 appropriate entity to prepare, a preliminary emergency assessment report to be presented to the Oneida  
145 Business Committee, any interested entity, and the public. [3 O.C. 302.8-5]. This report is required to  
146 be presented to the parties no later than thirty (30) days after the emergency has subsided, unless an  
147 extension is granted by the Oneida Business Committee.
- 148     ▪ ***Effect.*** The new provision to the Law ensures the Emergency Management Director is  
149 providing the Oneida Business Committee, any interested entity, and the public with a  
150 preliminary report that reviews the Nation's response to an emergency and identifies any areas  
151 in which the response could have been improved. Providing this information in a preliminary  
152 emergency assessment report allows the Nation to be best prepared in how to improve  
153 emergency response, in case an additional emergency occurs before the full analysis of a  
154 particular emergency response can be provided in the after-action report.
- 155 **D. *Extension of the Timeframe for an After-Action Report.*** Previously, the Law provided that after an  
156 emergency has subsided, the Emergency Director shall prepare, or shall work in conjunction with the  
157 appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee,  
158 any interested entity, and the public no later than sixty (60) days after the emergency has subsided,  
159 unless an extension is granted by the Oneida Business Committee. The amendments to the Law extend  
160 the timeframe for when an after-action report is required to be presented from sixty (60) days to ninety  
161 (90) days. [3 O.C. 302.8-6].
- 162     ▪ ***Effect.*** The amendments to the Law provide the Emergency Management Director additional  
163 time to prepare an after-action report to be presented to the Oneida Business Committee, any  
164 interested entity, and the public. The Emergency Management Director informed the  
165 Legislative Operating Committee that sixty (60) days is not a sufficient time allowance to  
166 complete this report, especially when there are times that information needs to be collected  
167 from other agencies to be included in the report.

## 168 169 **SECTION 6. EXISTING LEGISLATION**

- 170 **A. *Related Legislation.*** The following laws of the Nation are related to the emergency amendments to this  
171 Law:
- 172     ▪ ***Legislative Procedures Act.*** The Legislative Procedures Act was adopted by the General Tribal  
173 Council on January 7, 2013, for the purpose of providing a standard process for the adoption

of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].

- The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
  - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
  - The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
    - a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
  - Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
  - Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
  - Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
- Adoption of these proposed emergency amendments conform with the requirements of the Legislative Procedures Act.
- *Boards, Committees, and Commissions Law.* The Boards Committees and Commissions law governs boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].
  - 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. [1 O.C. 105.15-3].

- The proposed amendments to the Law replace the Oneida Nation Emergency Planning Committee with the Emergency Management Operations Team to eliminate any conflict with section 105.15-3 of the Boards, Committees, and Commissions law.

## SECTION 7. OTHER CONSIDERATIONS

- A. *Deadline for Permanent Adoption of Legislation.*** The emergency amendments to the Law will expire on March 14, 2022. The emergency legislation may be renewed for an additional six (6) month period.
- *Conclusion:* The Legislative Operating Committee will need to determine if the adoption of these amendments is necessary on a permanent basis, and if so, develop the permanent amendments to this Law within the next six (6) to twelve (12) months.
- B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [*1 O.C. 109.6-1*]. Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,*” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.
- *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact statement be completed.





TO: Keith Doxtator, Chief Financial Officer  
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer  
FROM: David P. Jordan, Legislative Operating Committee Chairman  
DATE: January 18, 2023  
RE: Emergency Management Law Amendments Fiscal Impact Statement

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

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

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

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

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

On January 18, 2023, the Legislative Operating Committee approved the final draft of the proposed amendments to the Emergency Management law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed Emergency Management law amendments by February 15, 2023.

A copy of the proposed Emergency Management law amendments, as well as the legislative analysis, have been attached to this memorandum for your convenience.

**Requested Action**

Provide the LOC a fiscal impact statement of the proposed Emergency Management law amendments law by February 15, 2023.



Legislative Operating Committee  
January 18, 2023

## Petition: M. Cornelius - Chief Financial Officer Position

**Submission Date: 12/7/22**

**LOC Sponsor: Jennifer Webster**

**Summary:** *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following: (1) Cease the hiring process for a CFO immediately. (2) An inperson GTC meeting be held within 60 days of receipt of this petition to address the employment related issues with the current CFO and current Assistant CFO. (3) No changes to the employment status of the current CFO and Assistant CFO until decided by the GTC at the requested meeting in point #2.*

**11/30/22 OBC:** Marie Cornelius to acknowledge receipt of the petition from Mae Cornelius regarding the Chief Financial Officer position; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Secretary mailbox by Friday, December 16, 2022; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the January 25, 2022, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted, seconded by Lisa Liggins. Motion carried.

**12/7/22 LOC:** Motion Marie Cornelius to add the Petition: M. Cornelius – Chief Financial Officer Position to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**12/28/22 OBC:** Motion by Lisa Liggins to accept the legal review regarding the Mae Cornelius re: Chief Financial Officer Position petition and direct the Secretary to provide notice to the petitioner, seconded by Jennifer Webster. Motion carried. *[Legal Review determined petition was not valid.]*

### Next Steps:

- Accept the memorandum and remove the Petition: M. Cornelius – Chief Financial Officer Position from the Active Files List.



TO: Legislative Operating Committee  
FROM: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office  
DATE: January 18, 2023  
RE: Petition: M. Cornelius – Chief Financial Officer Position

A petition was submitted by Mae Cornelius on October 28, 2022, with the following summary of purpose:

1. Cease the hiring process for a CFO immediately.
2. An inperson [sic] GTC meeting be held within 60 days of receipt of this petition to address the employment related issues with the current CFO and current Assistant CFO.
3. No changes to the employment status of the current CFO and Assistant CFO until decided by the GTC at the requested meeting in point #2.

This petition was then verified by the Oneida Trust Enrollment Department on October 28, 2022. On November 30, 2022, the Oneida Business Committee then took action to acknowledge receipt of the petition from Mae Cornelius regarding the Chief Financial Officer position; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Secretary mailbox by Friday, December 16, 2022; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the January 25, 2023, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted.

The Legislative Operating Committee then added the *Petition: M. Cornelius – Chief Financial Officer Position* to its Active Files List on December 7, 2022, for a statement of effect to be developed by the Legislative Reference Office.

At the December 28, 2022, Oneida Business Committee meeting, the legal opinion was received from Chief Counsel JoAnne House. The legal opinion concludes that the *Petition: M. Cornelius - Chief Financial Officer Position* cannot be presented to the General Tribal Council as it violates the Constitution and laws of the Oneida Nation and is the subject of authority delegated to other governmental bodies. The Oneida Business Committee then took action to accept the legal opinion and its conclusions, which ultimately concluded the petition.

The Legislative Reference Office then received correspondence from the Oneida Business Committee which provided that since the *Petition: M. Cornelius – Chief Financial Officer Position* has been concluded as a result of the legal opinion, the submission of a statement of effect is no longer required. The *Petition: M. Cornelius – Chief Financial Officer Position* can now be removed from the Legislative Operating Committee's Active Files List.

#### **Requested Action**

Remove the *Petition: M. Cornelius – Chief Financial Officer Position* from the Active Files List.



Legislative Operating Committee  
January 18, 2023

## Petition: N. Barton - \$2,500 GWA Payment for Three Years

**Submission Date: 12/7/22**

**LOC Sponsor: Marie Cornelius**

**Summary:** *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following: (1) GWA payment of \$2500 for three (3) years to be paid to all enrolled Nation members. (2) The first payment to be made on or before September 30, 2023 and on or before September 30, of each subsequent fiscal year through 2025.*

**11/30/22 OBC:** Motion by Marie Cornelius to acknowledge receipt of the petition from Nancy Barton regarding \$2,500 GWA payment for 2023-2025; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Secretary mailbox by Friday, December 16, 2022; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates to be submitted for the January 25, 2022, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted, seconded by Jennifer Webster. Motion carried.

**12/7/22 LOC:** Motion Marie Cornelius to add the Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years to the Active Files List with Marie Cornelius as the sponsor; seconded by Jenifer Webster. Motion carried unanimously.

**Next Steps:**

- Accept the statement of effect for Petition: N. Barton - \$2,500 GWA Payment for Three Years and forward to the Oneida Business Committee.



## Statement of Effect

*Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years*

### Summary

This petition requests the General Tribal Council to consider directing a general welfare assistance payment of two thousand five hundred dollars (\$2,500) for three (3) years to be paid to all enrolled Nation members, with the first payment to be made on or before September 30, 2023, and on or before September 30<sup>th</sup>, of each subsequent fiscal year through 2025.

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

*Date: January 13, 2023*

### *Analysis by the Legislative Reference Office*

On November 14, 2022, the Petition: N. Barton - \$2,500 GWA Payment for Three (3) Years (“the Petition”) was submitted to the Business Committee Support Office by Nancy Barton and has since been verified by the Oneida Trust Enrollment Department. On November 30, 2022, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the January 25, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

1. *A GWA payment of \$2500 for three (3) years to be paid to all enrolled Nation Members.*
2. *The first payment to be made on or before September 30, 2023 and on or before September 30, of each subsequent fiscal year through 2025.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

### *Development of an Approved Program in accordance with the Oneida General Welfare Law*

The Petition requests the General Tribal Council to consider a “*GWA payment of \$2500 for three (3) years to be paid to all enrolled Nation Members.*” The reference to a “GWA payment” means a general welfare assistance payment, as provided for in the Oneida General Welfare law.

The Oneida General Welfare law was adopted by the Oneida Business Committee on December 8, 2021, through the adoption of resolution BC-12-08-21-A.<sup>1</sup> The purpose of the Oneida General

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<sup>1</sup> The Oneida General Welfare law was originally adopted on an emergency basis through resolution BC-08-12-20-D. Emergency amendments to the Oneida General Welfare law were then adopted through resolution BC-02-10-21-B. Those emergency amendments to the Law were then extended through resolution BC-07-28-21-M. The Oneida General Welfare law was adopted on a permanent basis through BC-12-08-21-A.



Welfare law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion. [10 O.C. 1001.1-1]. The federal government through the Tribal General Welfare Exclusion Act of 2014, codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the general welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal governments to provide financial assistance to its members under an approved program for the promotion of the general welfare of the Nation that is excludable from the gross income of those recipients, and thereby non-taxable. [10 O.C. 1001.1-1(a), 1001.4-1].

The principle of General Welfare Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as it:

- Satisfies the requirements for exclusion under 26 U.S.C. §139E;
- Is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations; or
- Meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1). [10 O.C. 1001.4-1(a)-(c)].

The General Test provides criteria used to determine if any assistance provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:

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

In order for assistance provided by the Nation under the principle of General Welfare Exclusion to qualify as non-taxable to the fullest extent permitted at law, it must occur through an approved program. [10 O.C. 1001.4-3]. Approved programs are established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.4-3(a)]. Each approved program is limited to purposes consistent with treatment under the General Welfare Exclusion as to purpose, eligibility, and funding, and all approved programs of the Nation are required to meet all criteria of the General Test. [10 O.C. 1001.4-3(b)-(d)]. An approved program created by the Nation is required to be adopted by the Oneida Business Committee through either a resolution or a law of the Nation. [10 O.C. 1001.5-1].

The Oneida General Welfare law provides for when an approved program of the Nation is required to be adopted through law or resolution. An approved program is required to be adopted by the Oneida Business Committee through a law of the Nation if it is intended that the approved program

will function on a permanent basis. [10 O.C. 1001.5-1(a)]. Adoption of an approved program by the Oneida Business Committee through a law of the Nation is required to follow and comply with the process and procedures of the Legislative Procedures Act. [10 O.C. 1001.5-1(a)(1)]. An approved program shall be adopted by the Oneida Business Committee through a resolution if the approved program will function for a limited term. [10 O.C. 1001.5-1(b)]. A limited term means the program will have a defined start and end date, or the approved program will utilize third-party funding and is not intended to function on a permanent basis. [10 O.C. 1001.3-1(d)]. An approved program to be considered for adoption through resolution by the Oneida Business Committee shall be accompanied by a statement of effect and submitted in accordance with the Oneida Business Committee's submission procedure and deadlines. [10 O.C. 1001.5-1(b)(1)]. The law or resolution establishing an approved program of the Nation is required to contain the following information:

- Name of the approved program;
- Purpose of the approved program;
- Eligibility rules and limitations for approved program;
- Funding source for approved program;
- How the approved program qualifies for General Welfare Exclusion; and
- Start and end date of approved program, if applicable. [10 O.C. 1001.5-1(c)(1)-(6)].

Once an approved program is developed and adopted by the Oneida Business Committee, any assistance provided by an approved program is limited to members of the Nation. [10 O.C. 1001.5-2]. Each approved program is required to set forth any specific eligibility rules and limitations applied to that program. [10 O.C. 1001.5-2]. Although approved programs of the Nation are limited to members of the Nation, the member of the Nation still has to meet the eligibility or guidelines of each specific approved program prior to receiving assistance from that approved program. Therefore, making an assistance payment to every member of the Nation as requested by the Petition may not be possible as not every member of the Nation may meet the eligibility or guidelines of an approved program.

All assistance provided through an approved program is required to be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program the payment shall be deemed forfeited. *Id.* The Nation may secure repayment from any recipient who forfeited their assistance. *Id.* Assistance provided to a member through an approved program shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, or garnishment by creditors of the member. [10 O.C. 1001.5-5].

The Nation does not guarantee assistance under the Oneida General Welfare law. [10 O.C. 1001.6-1]. Assistance shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. [10 O.C. 1001.6-1]. The Oneida Business Committee reserves the right to cancel, adjust, modify, or revoke any benefit. [10 O.C. 1001.6-2].

Therefore, in order for any assistance payments to be made in accordance with the Oneida General Welfare law as requested by the Petition, an approved program first has to be developed and adopted by the Oneida Business Committee. There is insufficient information provided in the Petition to determine if an approved program can be properly developed in accordance with the



requirements of the Oneida General Welfare law, such as what the purpose of this approved program would be; the eligibility rules and limitations for the approved program beyond just enrollment in the Nation, if any; and how the approved program qualifies for General Welfare Exclusion and meets the criteria of the General Test. [10 O.C. 1001.4-3, 1001.5-1(c)(1)-(6)].

The Petition is also not specific enough to inform whether the requested assistance payment of two thousand five hundred dollars (\$2,500) would occur through a new or existing approved program of the Nation. The Nation has utilized various approved programs to provide assistance to its members including, but not limited to, the following:

- *Oneida Nation Assistance Fund.* The Oneida Nation Assistance Fund law was adopted by the Oneida Business Committee 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]. The purpose of the Oneida Nation Assistance Fund is to provide financial assistance to members of the Nation to address the general welfare needs of members. [10 O.C. 1003.4-1]. This is a permanent approved program of the Nation. Any individual who is a member of the Nation; is age eighteen (18) or older; and submits a completed application during the designated submission timeframe is eligible to receive assistance from the Oneida Nation Assistance Fund. [10 O.C. 1003.5-1]. The Oneida Nation Assistance Fund is funded through the Nation's annual budget, and by any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1003.6-1]. The Oneida Business Committee is responsible for determining the amount of assistance available to an eligible recipient from the Oneida Nation Assistance Fund per any permitted distribution. [10 O.C. 1003.6-2].
- *Elder Assistance Program.* The Elder Assistance Program law was adopted by the Oneida Business Committee to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the Oneida General Welfare law. [10 O.C. 1002.1-1]. The purpose of the Elder Assistance Program is to provide financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders. [10 O.C. 1002.4-1]. This is a permanent approved program of the Nation. Any individual who is a member of the Nation; is age sixty-five (65) or older; and submits a completed application during the designated submission timeframe is eligible to receive assistance from the Oneida Nation Assistance Fund. [10 O.C. 1002.5-1]. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund. [10 O.C. 1002.6-1]. The Oneida Trust Enrollment Committee is responsible for determining the amount of assistance available to an eligible recipient from the Elder Assistance Program per any permitted distribution. [10 O.C. 1002.6-2].
- *Oneida Life Insurance Plan.* The Oneida Life Insurance Plan law was adopted by the Oneida Business Committee to provide a death benefit 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]. This is a permanent approved program of the Nation. 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].

- *Oneida Nation Food Assistance Program.* The Oneida Business Committee adopted resolution BC-09-01-22-A, *Oneida Nation Food Assistance Program – An Oneida General Welfare Exclusion Program*, which established the Oneida Nation Food Assistance Program as an approved program of the Nation in accordance with the Oneida General Welfare law for the purpose of providing financial assistance to members of the Nation to aid them with the rising costs of healthy food prices to ensure that their general welfare needs can continue to be met. This approved program was set to function for a limited term. This resolution identified that for the 2022 distribution of the Oneida Nation Food Assistance Program, any enrolled member of the Nation who is at least eighteen (18) years of age or older on or before December 31, 2022, shall be eligible for assistance from the Oneida Nation Food Assistance Program, while for the 2023 distribution any enrolled member of the Nation who is at least eighteen (18) years of age or older on or before December 31, 2023, shall be eligible for assistance from the Oneida Nation Food Assistance Program.
  
- *Oneida Elder Interview Program.* The Oneida Business Committee adopted resolution BC-08-10-22-A, *Saving Our History - Oneida Elder Interview Program - Oneida General Welfare Exclusion Program*, which established the Oneida Elder Interview Program as an approved program of the Nation in accordance with the Oneida General Welfare law for the purpose of interviewing Oneida elders to collect an oral history of their generation, the Oneida Nation, Oneida Reservation, and their families and fellow members in an effort to enrich the general welfare of every member of the Nation by recording the Nation’s history, culture, tradition, and unique way of life for generations to come. This approved program was set to function for a limited term. Assistance from the Oneida Elder Interview Program is available to any enrolled member of the Nation who is at least sixty-five (65) years of age or older and participates in an elder interview.
  
- *Summer Savings at the Pump Program.* The Oneida Business Committee adopted resolution BC-06-28-22-A, *Summer Savings at the Pump Program*, which established the Summer Savings at the Pump Program as an approved program of the Nation in accordance with the Oneida General Welfare law for the purpose of providing financial assistance to members of the Nation to aid them with the rising costs of gasoline prices to ensure that their general welfare needs can continue to be met. This approved program was set to function for a limited term. Assistance from the Summer Savings at the Pump Program was available to any enrolled member of the Nation who is at least eighteen (18) years of age or older on or before June 30, 2022.

#### *Funding an Approved Program*

The Petition calls for the first general welfare assistance payment of two thousand five hundred dollars (\$2,500) to be made on or before September 30, 2023, and that the subsequent payments be made on or before September 30<sup>th</sup> of each subsequent fiscal year through 2025.

Any assistance authorized through an approved program under the Oneida General Welfare law is limited to funds appropriated at the discretion of the Oneida Business Committee, no matter the source of the funds. [10 O.C. 1001.5-3]. Any allocation of funding by the Nation for an approved program is required to be budgeted for in accordance with the Budget and Finances law. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed. [10 O.C. 1001.5-3]. The Oneida Business Committee has the responsibility to designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of the Oneida General Welfare law. *Id.* Approved programs may also be funded through third-party funding if available. *Id.*

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 Nation is required to develop, adopt, and manage an annual budget. [1 O.C. 121.5-1]. All revenues and expenditures of the Nation shall be in accordance with the annual budget. *Id.* The Nation's annual budget is required to be a balanced budget, which does not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year. *Id.* The Budget and Finances law provides for the process and procedures to be used for the development and adoption of the Nation's budget. [1 O.C. 121.5-4].

On December 28, 2022, the Oneida Business Committee adopted resolution BC-12-28-22-D, *Adoption of Fiscal Year 2023 Budget*, which adopted the Fiscal Year 2023 budget in the amount of five hundred and forty-nine million one hundred and six thousand nine hundred eighty-eight dollars (\$549,106,988) on behalf of the General Tribal Council.<sup>2</sup> The Fiscal Year 2023 budget was

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<sup>2</sup> The Budget and Finances 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 until such time as a budget is adopted. [1 O.C. 121.5-4(e)(1)]. The Oneida Business Committee took action to adopt a continuing budget resolution through the adoption of resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*, which allowed organizational activities to continue until the final budget was presented for approval. Resolution BC-09-14-22-D provided that the continuing budget resolution would remain in effect from October 1, 2022, until December 31, 2022, or until the budget is adopted whichever is soonest. The Budget and Finances law then provides that if the General Tribal Council is not able to 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. [1 O.C. 121.5-4(e)(1)]. The Fiscal Year 2023 Budget was not able to be presented to the General Tribal Council for adoption prior to

adopted prior to this Petition being presented to the General Tribal Council for consideration. Therefore, an allocation of funding to support assistance made under an approved program to be provided to all members of the Nation of two thousand five hundred dollars (\$2,500) specific to the request of this Petition has not been included in the Fiscal Year 2023 budget. All expenditures of the Nation are required to be made in accordance with the annual budget. [1 O.C. 121.5-1].

After the budget is adopted, amendments of the budget are not permitted unless it is necessary to avoid a budget deficit. [1 O.C. 121.5-5]. The Treasurer and Chief Financial Officer shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year, and then the Chief Financial Officer shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. *Id.* The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. *Id.* The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting. *Id.* So unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2023 budget to provide for the requested payment would not be permissible under the Budget and Finances law.

Additionally, unbudgeted expenditures are permitted under the Budget and Finances law if granted approval by the Oneida Business Committee. [1 O.C. 121-6-4(a)]. The Chief Financial Officer is required to provide the Oneida Business Committee with a written fiscal analysis and any input on any potential unbudgeted expenditure. *Id.* The approval of any unbudgeted expenditure is required to be made by the Oneida Business Committee through the adoption of a resolution prior to the expenditure being made by a fund unit. *Id.* Any unbudgeted expenditure for items and specific projects which were not identified in the approved budget made for over two hundred and fifty thousand dollars (\$250,000) is required to be formally noticed by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council regular or special meeting. [1 O.C. 121.6-4(b). BC-05-11-22-B, BC-10-08-08-A.].

Any allocation of funding to support assistance provided in accordance with an approved program developed under the Oneida General Welfare law for future fiscal years would need to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.

### Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years would have the following legislative impacts:

1. The Petition's request for assistance payments of two thousand five hundred dollars (\$2,500) to be paid to all members of the Nation would have to be provided through an approved program developed and adopted by the Oneida Business Committee in accordance with the requirements and procedures of the Oneida General Welfare law.
2. The Petition's request for an assistance payment of two thousand five hundred dollars (\$2,500) to be paid on or before September 30, 2023, may not be possible as the Fiscal

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September 30, 2022. The Oneida Business Committee then adopted a continuing resolution BC-09-14-22-D, *Continuing to Operate Fiscal Year 2023*. The Fiscal Year 2023 Budget was not presented to the General Tribal Council for consideration prior to the expiration of resolution BC-09-14-22-D, so the Oneida Business Committee then adopted the Fiscal Year 2023 Budget through resolution BC-12-28-22-D, *Adoption of Fiscal Year 2023 Budget*.

Year 2023 Budget has already been adopted by the Oneida Business Committee through resolution BC-12-28-22-D prior to the consideration of this Petition. Any allocation of funding to support assistance provided in accordance with an approved program developed under the Oneida General Welfare law for future fiscal years would need to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.

### **Requested Action**

Accept the statement of effect for the Petition: N. Barton – \$2,500 GWA Payment for Three (3) Years.



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: \_\_\_\_\_
- 2) Contact Person(s): \_\_\_\_\_  
 Dept: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_
- 3) Agenda Title: \_\_\_\_\_
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

- |          |          |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:  
 \_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
 \_\_\_\_\_
- 7) Do you consider this request urgent?    ☐ Yes    ☐ No  
 If yes, please indicate why:  
 \_\_\_\_\_

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

Signature of Requester: \_\_\_\_\_

*Please send this form and all supporting materials to:*

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

*Proposed amendment to permit the smoking of cigar and tobacco in pipes within an Oneida Retail operated cigar and tobacco store:*

1. Insert the following definition after 4 O.C. 411.3-1(e):

**(f)** "Tobacco product" means any form of tobacco prepared in a manner suitable for smoking.

2. Redesignate 4 O.C. 411.3-1(f) as 4 O.C. 411.3-1(g) and change definition by deleting "Tribe of Indians of Wisconsin" and inserting "Nation."

3. Insert the following specific exemption to 4 O.C. 411.4-2 (b):

(3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which the smoking of only cigars or tobacco in a pipe is permitted, unless prohibited by the terms and conditions of the lease.

# January 2023

January 2023

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				

February 2023

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				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 1, 23	2	3	4 8:30am LOC Prep (Microsoft Teams Meeting; 9:00am Legislative Operating Committee	5	6 9:00am Oneida Language Code Work Meeting with 1:00pm Workplace Violence amendments	7
8	9	10 9:00am Oneida Language Code Work Meeting with Oneida Language Department (Microsoft	11 10:30am Oneida Business Committee Meeting	12 10:00am LOC Work Session (Microsoft Teams 12:15pm PUBLIC MEETING: Oneida Personnel	13	14
15	16	17	18 8:30am LOC Prep (Microsoft Teams 9:00am Legislative Operating 10:30am Emergency	19	20 11:00am Investigative Leave Policy (Microsoft Teams Meeting) - Grace L. Elliott	21
22	23 10:30am OHE Compare Rule/Law Versions of Handbook (Rdg_Suite4_Conf) - Grace L. Elliott	24	25	26 10:00am LOC Work Session (Microsoft Teams 1:00pm Drug and Alcohol Free Workplace Law	27	28
29	30	31	Feb 1	2	3	4