



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

May 17, 2023

9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. May 3, 2023 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Oneida Life Insurance Plan Law (pg. 5)
2. Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020 (pg. 26)
3. Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings (pg. 28)
4. Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position (pg. 35)
5. Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present (pg. 43)
6. Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election (pg. 48)
7. Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training (pg. 51)
8. Petition: L. Dallas – Oneida Nation Disability Fund (pg. 58)
9. Petition: L. Dallas – Repeal and Replace Current Removal Law (pg. 61)
10. Petition: L. Dallas – Review and Discuss General Tribal Council's Delegation of Power and Authority to all Entities (pg. 71)
11. Petition: L. Dallas – Transitional Housing (pg. 73)
12. Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting (pg. 82)

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Review of the Eviction and Termination Law

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 3, 2023
9:00 a.m.

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

Excused: Jennifer Webster

Others Present: Clorissa N. Leeman, Grace Elliott, Brooke Doxtator, Keith Doxtator, Rhiannon Metoxen (Microsoft Teams), Peggy Van Gheem (Microsoft Teams), Matt Denny (Microsoft Teams), Justin Nishimoto (Microsoft Teams), Todd Vanden Heuvel (Microsoft Teams), Kristal Hill (Microsoft Teams), Kaylynn Gresham (Microsoft Teams), Tina Jorgensen (Microsoft Teams), Rae Skenandore (Microsoft Teams), Michelle Braaten (Microsoft Teams), Debra Powless (Microsoft Teams), Eric Boulanger (Microsoft Teams), Rosa Laster (Microsoft Teams), Shannon Davis (Microsoft Teams), Kristine Hill (Microsoft Teams), Lisa Liggins (Microsoft Teams), Linda Langen (Microsoft Teams), Sidney White (Microsoft Teams), Derrick King (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the April 19, 2023, Legislative Operating Committee meeting to order at 9:04 a.m.

Motion by Marie Cornelius to adopt the agenda with two additions: item V.1 Legislative Operating Committee Fiscal Year 2023 Semi-Annual Report; and item V.2 Legislative Reference Office Fiscal Year 2023 Semi-Annual Report; seconded by Daniel Guzman King. Motion carried unanimously.

II. Minutes to be Approved

1. April 19, 2023 LOC Meeting Minutes

Motion by Marie Cornelius to approve the April 19, 2023, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

III. Current Business

1. Petition: L. Dallas – Budgets for the Oneida Nation be Brought Before the General Tribal Council

Motion by Kirby Metoxen to accept the statement of effect for the Petition: L. Dallas – Budgets for the Oneida Nation be Brought Before the General Tribal Council and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.



2. Petition: L. Dallas – Community Improvement Projects (CIP) and Funding

Motion by Kirby Metoxen to accept the statement of effect for the Petition: L. Dallas – Community Improvement Projects (CIP) and Funding and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

3. Petition: L. Dallas – Contract of Chief Counsel Jo Anne House

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Contract of Chief Counsel Jo Anne House and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4. Petition: L. Dallas – Direct a Certified Parliamentarian be Appointed by General Tribal Council Prior to Each General Tribal Council Meeting

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Direct a Certified Parliamentarian be Appointed by General Tribal Council Prior to Each General Tribal Council Meeting and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

5. Petition: L. Dallas – Disclosure of Oneida Nation Travel Expenditures from January 1, 2020 – Present

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Disclosure of Oneida Nation Travel Expenditures from January 1, 2020 – Present and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

6. Petition: L. Dallas – Disclosure of Oneida Nation Travel Expenditures to England for the October 9, 2022, Green Bay Packer Game

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Disclosure of Oneida Nation Travel Expenditures to England for the October 9, 2022, Green Bay Packer Game and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

7. Petition: L. Dallas – Donations - Internal and External

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Donations - Internal and External and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

8. Petition: L. Dallas – Repeal GTC Resolution # 01-21-19-A Amending the 120-Day Petition Timeline Adopted by General Tribal Council

Motion by Marie Cornelius to accept the statement of effect for the Petition: L. Dallas – Repeal GTC Resolution # 01-21-19-A Amending the 120-Day Petition Timeline Adopted by General Tribal Council and forward to the Oneida Business Committee; seconded by

Kirby. Motion carried unanimously.

9. Petition: L. Dallas – Repeal the Budget and Finances Law

Motion by Daniel Guzman King to accept the statement of effect for the Petition: L. Dallas – Repeal the Budget and Finances Law and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

IV. New Submissions

1. Petition: L. Dallas – Emergency Amendments to the Election Law for 2023 General Election

Motion by Marie Cornelius to add the Petition: L. Dallas – Emergency Amendments to the Election Law for 2023 General Election with all LOC members as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

V. Additions

1. Legislative Operating Committee Fiscal Year 2023 Semi-Annual Report

Motion by Marie Cornelius to approve the Legislative Operating Committee Fiscal Year 2023 Semi-Annual Report and forward to the Oneida Business Committee Secretary; seconded by Kirby Metoxen. Motion carried unanimously.

2. Legislative Reference Office Fiscal Year 2023 Semi-Annual Report

Motion by Marie Cornelius to approve the Legislative Reference Office Fiscal Year 2023 Semi-Annual Report and forward to the Oneida Business Committee Secretary; seconded by Kirby Metoxen. Motion carried unanimously.

VI. Administrative Items

1. Legislative Operating Committee Fiscal Year 2023 Second Quarter Report

Motion by Marie Cornelius to approve the Legislative Operating Committee Fiscal Year 2023 Second Quarter Report and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Marie Cornelius to adjourn at 9:43 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee
May 17, 2023

Oneida Life Insurance Plan Law

Submission Date: 9/7/22	Public Meeting: N/A
LOC Sponsor: Kirby Metoxen	Emergency Enacted: 9/28/22, 3/22/23

Summary: *This item was added to the Active Files List on September 7, 2022, per the request of Carl Artman, attorney in the Oneida Law Office that represents the Oneida Trust Enrollment Committee. Epic currently manages the Nation's OLIPP program. The Epic contract ends on 09/30/22 and it is ending this service offering after this year. The Oneida Trust and Enrollment Committee concludes it will save \$250,000 annually by managing OLIPP itself. The proposed law would make OLIPP an approved program under the Oneida General Welfare law that is administered by the Oneida Trust Enrollment Department. The Oneida Business Committee adopted the OLIPP law on an emergency basis on September 28, 2022, through the adoption of resolution BC-09-28-22-C. The emergency amendments to the OLIPP law will expire on March 28, 2023. On March 22, 2023, the Oneida Business Committee extended the emergency adoption of the Oneida Life Insurance Plan law for an additional six (6) month period through the adoption of resolution BC-03-22-23-C. The emergency adoption of the Oneida Life Insurance Plan law will now expire on September 28, 2023.*

8/25/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, Carolyn Salutz, Grace Elliot, Kristal Hill. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the proposed OLIPP law, and its potential emergency adoption.

9/7/22 LOC: Motion by Marie Summers to add the Oneida Life Insurance Plan Plus law to the Active Files List for emergency adoption with Kirby Metoxen as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

9/21/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Cornelius, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, Carolyn Salutz, Grace Elliot, Rhiannon Metoxen. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the updated OLIPP law.

9/21/22: *E-Poll Conducted.* This e-poll was titled, "Emergency Adoption of the Oneida Life Insurance Plan Law." The requested action of this e-poll was to approve the Oneida Life Insurance Plan law emergency adoption packet and forward to the Oneida Business Committee for consideration. This e-poll was approved by Jennifer Webster, Daniel Guzman King, David P. Jordan, Kirby Metoxen, and Marie Cornelius.

9/27/22: *Work Meeting.* Present: David P. Jordan, Marie Cornelius, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, Kristal Hill, Ralinda Ninham-Lamberies. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss Finance's concerns with the proposed OLIPP law.

9/28/22 OBC: Motion by Kirby Metoxen to adopt resolution entitled 09-28-22-C Emergency Adoption of the Oneida Life Insurance Plan Law, seconded by Marie Cornelius. Motion carried.

10/5/22 LOC: Motion by Daniel Guzman King to enter into the record the results of the September 21, 2022, e-poll entitled, *Emergency Adoption of the Oneida Life Insurance Plan Law*; seconded by Jennifer Webster. Motion carried unanimously.

3/6/23: *Work Meeting.* Present: Jennifer Webster, Marie Cornelius, Daniel Guzman King, Clorissa N. Leeman, Carl Artman, Kristal Hill, Ralinda Ninham-Lamberies, Keith Doxtator, John Danforth. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the implementation of the OLIPP law during the first six months, review concerns and input discussed at the September 28, 2022, OBC meeting, and discuss and determine if there are any revisions needed to the Law prior to the permanent adoption of this Law.

3/15/23 LOC: Motion by Marie Cornelius to approve the emergency extension of the Oneida Life Insurance Plan law packet and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Jennifer Webster to approve the draft of the Oneida Life Insurance Plan law and direct that a legislative analysis be completed; seconded by Marie Cornelius. Motion carried unanimously.

3/22/23 OBC: Motion by Marie Cornelius to adopt resolution entitled 03-22-23-C Extension of the Emergency Adoption of the Oneida Life Insurance Plan Law, seconded by Jennifer Webster. Motion carried.

3/28/23: *Work Meeting.* Present: David P. Jordan, Marie Cornelius, Clorissa N. Leeman, Tehassi Hill, Brandon Yellowbird Stevens, Danelle Wilson, Carl Artman, Kristal Hill, Keith Doxtator, John Danforth, Kelly Danforth. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss with Trust Enrollment how the Oneida Life Insurance Plan law is implemented, and further discuss how “funeral expenses” is defined in the Law

5/5/23: *Work Meeting.* Present: Clorissa N. Leeman, John Danforth, Kelly Danforth, Venessa Cardish. This work meeting was held through Microsoft Teams. The purpose of this meeting was to discuss the legislative process for the permanent adoption of the Oneida Life Insurance Plan law, as well as a potential timeframe for completing this legislative work.

Next Steps:

- Approve the updated draft of the Oneida Life Insurance Plan law, legislative analysis, and public meeting notice, and forward the Oneida Life Insurance Plan law to a public meeting to be held on July 13, 2023.

Title 10. General Welfare Exclusion - Chapter 1004
ONEIDA LIFE INSURANCE PLAN

1004.1. Purpose and Policy
1004.2. Adoption, Amendment, Repeal
1004.3. Definitions
1004.4. Establishment

1004.5. Qualifications, Designation of Beneficiary, and Notice
1004.6. Beneficiary Claim Process and Distribution
1004.7. Funding
1004.8. Administrative Rulemaking

1004.1. Purpose and Policy

1004.1-1. *Purpose.* The purpose of this law is 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.

(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation’s sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

1004.2. Adoption, Amendment, Repeal

1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

1004.2-4. 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.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1004.3. Definitions

1004.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter to the designated beneficiary.

(c) "Decedent" means the deceased person.

(d) "Designated Beneficiary" means any person(s) designated by the enrolled member of the Nation, through the approved beneficiary designation form, to receive all or a portion

Draft 2 (Redline to Draft 1)

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41 of the decedent's Oneida Life Insurance Plan benefit.

42 (e) "Funeral Expenses" means the cost of the funeral of the decedent accrued and invoiced
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) ~~use of the funeral home for the~~ viewing, ceremony, or memorial
53 ~~services~~ services;
- 54 (9) use of ~~equipment and staff for a graveside service;~~
- 55 ~~(10) use of~~ a hearse or limousine;
- 56 (11) a casket, outer burial container or alternate container;
- 57 ~~(11) monuments;~~ and
- 58 (12) cremation or interment.

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

60 61 **1004.4. Establishment**

62 1004.4-1. *Establishment.* The Oneida Life Insurance Plan is hereby established as an approved
63 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the
64 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance
65 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts
66 paid thereafter to the designated beneficiary.

67 1004.4-2. *General Welfare Exclusion.* The Oneida Life Insurance Plan meets the requirements of
68 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
69 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare
70 Exclusion Act of 2014, 26 U.S.C. §139E(b).

71 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 72 (1) paid on behalf of the Nation;
- 73 (2) pursuant to an approved program of the Nation;
- 74 (3) does not discriminate in favor of members of the governing body of the Nation;
- 75 (4) available to any eligible member of the Nation who meets the guidelines of the
76 approved program;
- 77 (5) provided for the promotion of general welfare;
- 78 (6) not lavish or extravagant;
- 79 (7) not compensation for services; and
- 80 (8) not a per capita payment.

81 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses
82 related to a death as Safe Harbor program for which need is presumed.

83 84 **1004.5. Qualifications, Designation of Beneficiary, and Notice**

85 1004.5-1. *Eligibility.* All members of the Nation shall qualify for benefits from the Oneida Life

Draft 2 (Redline to Draft 1)

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86 Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a
87 designated beneficiary.

88 (a) Newly enrolled members of the Nation shall be covered the date their enrollment
89 application is approved by Oneida Trust Enrollment Committee and Oneida Business
90 Committee.

91 (b) Members of the Nation that have relinquished their membership shall not be covered
92 from the date their relinquishment request is approved by the Oneida Trust Enrollment
93 Committee and Oneida Business Committee.

94 1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust
95 Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust
96 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to
97 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

98 (a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the
99 effective date of this law shall remain valid.

100 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent
101 did not designate a living beneficiary though the beneficiary designation form.

102 (c) ~~This section shall not be enforced during the initial one hundred and eighty (180) days~~
103 ~~after the effective date of this law, thereby creating a one hundred eighty (180) day grace~~
104 ~~period to permit members of the Nation to complete and submit designated beneficiary~~
105 ~~forms.—~~

106 ~~(d)~~ A parent or legal guardian ~~may~~shall complete and submit a beneficiary designation
107 form on behalf of their minor child or ward.

108 ~~(e)~~ Funeral expenses shall be paid directly to the funeral home upon submission of a
109 valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated
110 beneficiary has not been designated.

111 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one
112 (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan
113 benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary
114 of the decedent's death shall not be processed for distribution.

115 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight
116 and management of the Oneida Life Insurance Plan.

117 118 **1004.6. Beneficiary Claim Process and Distribution**

119 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules
120 relating to determination of death and status are applicable:

121 (a) A certified or authenticated copy of a death certificate purporting to be issued by an
122 official or agency of the place where the death purportedly occurred is prima facie proof
123 of the fact, place, date and time of death, and the identity of the decedent;

124 (b) A certified or authenticated copy of any record or report of a governmental agency,
125 domestic or foreign, of a decedent's death; and

126 (c) A person who is absent for a continuous period of seven (7) years, during which they
127 have not been heard from, and whose absence is not satisfactorily explained after diligent
128 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the
129 end of the period unless there is sufficient evidence for determining that death occurred
130 earlier.

Draft 2 (Redline to Draft 1)

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131 ~~1002~~1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who
 132 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits
 133 passing under this law.

134 ~~1002~~1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the
 135 following order:

136 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
 137 invoice therefrom;

138 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
 139 beneficiary, family of the decedent, or any other responsible parties.

140 (b) Residual benefits shall be paid to the designated beneficiary;

141 ~~(c) Residual benefits shall escheat to the Nation if the decedent did not designate a~~
 142 ~~beneficiary for the Oneida Life Insurance Plan benefits in accordance with this law.~~

143

144 **1004.7. Funding**

145 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding
 146 ~~through~~by the Nation's ~~annual~~ budget.

147

148 **1004.8. Administrative Rulemaking**

149 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment
 150 Department shall be delegated administrative rulemaking authority in accordance with the
 151 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida
 152 Life Insurance Plan.

153

154 *End.*

155

156

Emergency Adopted – BC-09-28-22-C157 Emergency Extension – BC-~~-----~~-03-22-23-C

158 Adopted – BC- _ - _ - _ - _

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Title 10. General Welfare Exclusion - Chapter 1004
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1004.2-1. This law was adopted by the Oneida Business Committee ~~on an emergency basis~~ by resolution BC-09-28-22-C- - - -.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

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49 parties;
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64 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance
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66 paid thereafter to the designated beneficiary.

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68 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
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70 Exclusion Act of 2014, 26 U.S.C. §139E(b).

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76 approved program;
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93 Committee and Oneida Business Committee.

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107 form on behalf of their minor child or ward.

108 ~~(e)~~ Funeral expenses shall be paid directly to the funeral home upon submission of a
109 valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated
110 beneficiary has not been designated.

111 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one
112 (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan
113 benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary
114 of the decedent's death shall not be processed for distribution.

115 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight
116 and management of the Oneida Life Insurance Plan.

117 118 **1004.6. Beneficiary Claim Process and Distribution**

119 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules
120 relating to determination of death and status are applicable:

121 (a) A certified or authenticated copy of a death certificate purporting to be issued by an
122 official or agency of the place where the death purportedly occurred is prima facie proof
123 of the fact, place, date and time of death, and the identity of the decedent;

124 (b) A certified or authenticated copy of any record or report of a governmental agency,
125 domestic or foreign, of a decedent's death; and

126 (c) A person who is absent for a continuous period of seven (7) years, during which they
127 have not been heard from, and whose absence is not satisfactorily explained after diligent
128 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the
129 end of the period unless there is sufficient evidence for determining that death occurred
130 earlier.

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131 ~~1002~~1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who
 132 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits
 133 passing under this law.

134 ~~1002~~1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the
 135 following order:

136 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
 137 invoice therefrom;

138 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
 139 beneficiary, family of the decedent, or any other responsible parties.

140 (b) Residual benefits shall be paid to the designated beneficiary;

141 ~~(c) Residual benefits shall escheat to the Nation if the decedent did not designate a~~
 142 ~~beneficiary for the Oneida Life Insurance Plan benefits in accordance with this law.~~

143

144 **1004.7. Funding**

145 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding
 146 ~~through~~by the Nation's ~~annual~~ budget.

147

148 **1004.8. Administrative Rulemaking**

149 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment
 150 Department shall be delegated administrative rulemaking authority in accordance with the
 151 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida
 152 Life Insurance Plan.

153

154 *End.*

155

157 Emergency Adopted – BC-09-28-22-C

158 Emergency Extension – BC-03-22-23-C

159 Adopted – BC- - - -

ONEIDA NATION PUBLIC MEETING NOTICE**THURSDAY, JULY 13, 2023****12:15 pm****VIRTUALLY HELD ON MICROSOFT TEAMS****Find Public Meeting Materials at**

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

Send Public Comments to

LOC@oneidationation.org

Ask Questions here

LOC@oneidationation.org

920-869-4417

**ONEIDA LIFE INSURANCE PLAN LAW**

The purpose of the Oneida Life Insurance Plan law is to provide a death benefit of fifteen thousand dollars (\$15,000) through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.

Due to the closure of the Norbert Hill Center's conference rooms for construction, an individual may attend this public meeting virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidationation.org.

PUBLIC COMMENT PERIOD CLOSSES WEDNESDAY, JULY 20, 2023

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

For more information on the proposed Oneida Life Insurance Plan law please review the public meeting packet at oneida-nsn.gov/government/register/public meetings.





ADOPTION OF THE ONEIDA LIFE INSURANCE PLAN LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	<ul style="list-style-type: none">▪ Establish the Oneida Life Insurance Plan as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1004.4-1].▪ Provide how this program qualifies for general welfare exclusion. [10 O.C. 1004.4-2].▪ Provide that all members of the Nation shall qualify for benefits from the Oneida Life Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a designated beneficiary. [10 O.C. 1004.5-1].▪ Require that a member of the Nation complete the Oneida Trust Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to their death in order to secure residual benefits from the Oneida Life Insurance Plan for their beneficiary. [10 O.C. 1004.5-2].▪ Provide that funeral expenses shall be paid directly to the funeral home upon submission of a valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated beneficiary has not been designated – but the Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent did not designate a living beneficiary through the beneficiary designation form. [10 O.C. 1004.5-2(b), 1004.5-2(d)].▪ Require that the Oneida Trust Enrollment Department be notified within one (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. [10 O.C. 1004.5-3].▪ Provide that the Trust Enrollment Department is the department that has the responsibilities to oversee and administer the Oneida Life Insurance Plan. [10 O.C. 1004.5-4].▪ Provide rules related to the determination of death and status. [10 O.C. 1004.6-1].▪ Prohibit a designated beneficiary who criminally and intentionally causes the death of the decedent from being entitled to any benefits passing under this law. [10 O.C. 1004.6-2].▪ Provide how the Oneida Life Insurance Plan benefits shall be distributed. [10 O.C. 1004.6-3].▪ Provide that the Oneida Life Insurance Plan shall be contingent on funding by the Nation. [10 O.C. 1004.7-1].▪ Delegate administrative rulemaking authority in accordance with the Administrative Rulemaking law to the Oneida Trust Enrollment Committee for the purpose of promulgating rules to govern the administration of the Oneida Life Insurance Plan. [10 O.C. 1004.8-1].

Purpose	To provide a death benefit of fifteen thousand dollars (\$15,000) through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law. <i>[10 O.C. 1004.1-1]</i> .
Affected Entities	Oneida Trust Enrollment Department.
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.
Expiration of Emergency Legislation	Emergency adoption of the Oneida Life Insurance Plan law expires on September 28, 2023.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

2 **A. Background.** The Oneida Life Insurance law will be a new law adopted by the Nation on for the
 3 purpose of providing a death benefit of fifteen thousand dollars (\$15,000) through the Oneida Life
 4 Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida
 5 General Welfare law. *[10 O.C. 1004.1-1]*.

6 **B. Emergency Adoption.** On August 17, 2022, the Legislative Operating Committee received a request
 7 from the Oneida Law Office and the Oneida Trust Enrollment Committee for the adoption of the Oneida
 8 Life Insurance Plan law on an emergency basis. The Nation provided the Oneida Life Insurance Plan
 9 Plus, otherwise known as OLIPP, which consisted of fifteen thousand dollars (\$15,000) of life
 10 insurance benefits directly payable to a tribal member’s designated beneficiaries. The Nation contracted
 11 with the company Epic to manage OLIPP. Epic collected relevant information regarding the decedent
 12 and beneficiaries and distributed OLIPP funds. Epic planned to cease this service offering and terminate
 13 its current contracts for this service, including with the Nation, on September 30, 2022. The Oneida
 14 Trust and Enrollment Committee determined the Oneida Trust and Enrollment Department could
 15 manage OLIPP in-house, yielding a cost savings to the Nation and expediting payments to the
 16 beneficiaries. The proposed OLIPP law codified this benefit as an approved program under the Oneida
 17 General Welfare law. The Oneida Trust and Enrollment Department requested this proposed law be
 18 considered for emergency adoption since the Oneida Trust and Enrollment Department sought to
 19 commence the in-house management and oversight of OLIPP immediately after the Epic contract
 20 terminated on September 30, 2022. A smooth transition would ensure uninterrupted service the tribal
 21 members participating in OLIPP and the beneficiaries that will emerge in the next fiscal year and
 22 beyond. The Oneida Life Insurance Plan law (the “Law”) was adopted by the Oneida Business
 23 Committee on an emergency basis on September 28, 2022, through the adoption of resolution BC-09-
 24 28-22-C. The emergency adoption of this Law was set to expire on March 28, 2023. The Legislative
 25 Operating Committee sought an extension of the emergency adoption of this Law. The Oneida Business
 26 Committee extended the emergency adoption of this Law on March 22, 2023, through the adoption of
 27 resolution BC-03-22-23-C. The emergency adoption of this law will expire on September 28, 2023.

28
 29 **SECTION 3. CONSULTATION AND OUTREACH**

- 30 **A.** Representatives from the following departments or entities participated in the development of this Law
 31 and legislative analysis:
- 32 ▪ Oneida Law Office;
 - 33 ▪ Oneida Trust Enrollment Department;
 - 34 ▪ Oneida Business Committee; and
 - 35 ▪ Finance Administration.

- 36 B. The following laws were reviewed in the drafting of this analysis:
37 ▪ Oneida General Welfare law; and
38 ▪ Administrative Rulemaking Law.
39

40 **SECTION 4. PROCESS**

- 41 A. The development of the proposed Oneida Life Insurance Plan law complies with the process set forth
42 in the Legislative Procedures Act (LPA).
43 ▪ On September 7, 2022, the Legislative Operating Committee added the Law to its Active Files List.
44 ▪ On September 21, 2022, the Legislative Operating Committee conducted an e-poll entitled,
45 *Emergency Adoption of the Oneida Life Insurance Plan Law*. The requested action of this e-poll
46 was to approve the Oneida Life Insurance Plan law emergency adoption packet and forward to the
47 Oneida Business Committee for consideration. This e-poll was approved by Jennifer Webster,
48 Daniel Guzman King, David P. Jordan, Kirby Metoxen, and Marie Cornelius.
49 ▪ On September 28, 2022, the Oneida Business Committee adopted the Oneida Life Insurance Plan
50 law on an emergency basis through the adoption of resolution BC-09-28-22-C.
51 ▪ On October 5, 2022, the Legislative Operating Committee entered into the record the results of the
52 September 21, 2022, e-poll entitled, *Emergency Adoption of the Oneida Life Insurance Plan Law*.
53 ▪ On March 15, 2023, the Legislative Operating Committee approved the emergency extension of
54 the Oneida Life Insurance Plan law packet and forwarded these materials to the Oneida Business
55 Committee for consideration. The Legislative Operating Committee also approved the draft of the
56 Oneida Life Insurance Plan law and directed that a legislative analysis be completed.
57 ▪ On March 22, 2023, the Oneida Business Committee extended the emergency adoption of the
58 Oneida Life Insurance Plan law for an additional six (6) month period through the adoption of
59 resolution BC-03-22-23-C.
- 60 B. At the time this legislative analysis was developed the following work meetings had been held
61 regarding the development of the amendments to this Law:
62 ▪ August 25, 2022. LOC work meeting with the Oneida Law Office;
63 ▪ September 21, 2022. LOC work meeting with the Oneida Law Office;
64 ▪ September 27, 2022. LOC work meeting with the Oneida Law Office and Finance Administration;
65 ▪ March 6, 2023. LOC work meeting with the Oneida Law Office, Finance Administration, and
66 Oneida Trust Enrollment Department;
67 ▪ March 28, 2023. LOC work meeting with the Oneida Law Office, Finance Administration, Oneida
68 Trust Enrollment Department, and Oneida Business Committee; and
69 ▪ May 5, 2023. LRO work meeting with Oneida Trust Enrollment Department.
70

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

- 72 A. *Purpose and Policy*. The purpose of this law is to provide a death benefit through the Oneida Life
73 Insurance Plan for all eligible enrolled Oneida Nation members, pursuant to the Oneida General
74 Welfare law. [10 O.C. 1004.1-1]. The General Tribal Council, through resolution GTC-01-17-09-B,
75 approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The
76 General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars
77 (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The
78 payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation
79 member is an exercise of self-governance crucial to the Oneida Nation’s sovereignty, and health and

welfare of the community. [10 O.C. 1004.1-1(a)]. It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries. [10 O.C. 1004.1-2].

▪ **Effect.** The overall purpose of this Law is to codify the Nation’s sovereign right to provide assistance to members of the Nation on a non-taxable basis through an approved program.

B. Establishment. This Law establishes the Oneida Life Insurance Plan as an approved program of the Nation in accordance with the Oneida General Welfare law. [10 O.C. 1004.4-1]. The purpose of the Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts paid thereafter to the designated beneficiary. *Id.* Funeral expenses include funeral planning; securing the necessary permits and copies of death certificates; preparing the notices; sheltering the remains; coordinating the arrangements with the cemetery, crematory or other third parties; transporting the remains; embalming and other preparation; viewing, ceremony or memorial service; use of a hearse or limousine; a casket, outer burial container or alternate container; monuments; and cremation or interment. [10 O.C. 1004.3-1(e)]. The Oneida Life Insurance Plan meets the requirements of the General Test as defined in the Oneida General Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b). [10 O.C. 1004.4-2].

C. Eligibility. The Law provides that all members of the Nation shall qualify for benefits from the Oneida Life Insurance Plan to be used for funeral expenses first, with any residual benefits then distributed to a designated beneficiary. [10 O.C. 1004.5-1].

D. Designation of Beneficiary. A member of the Nation is required to complete the Oneida Trust Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary. [10 O.C. 1004.5-2]. Any Oneida Life Insurance Plan beneficiary designation form that has already been submitted to the Oneida Trust Enrollment Department prior to the effective date of this law shall remain valid. [10 O.C. 1004.5-2(a)]. Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent did not designate a living beneficiary though the beneficiary designation form. [10 O.C. 1004.5-2(b)]. A parent or legal guardian shall complete and submit a beneficiary designation form on behalf of their minor child or ward. [10 O.C. 1004.5-2(c)]. Funeral expenses shall be paid directly to the funeral home upon submission of a valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated beneficiary has not been designated. [10 O.C. 1004.5-2(d)].

E. Notice of Death. The Oneida Trust Enrollment Department shall be notified within one (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. [10 O.C. 1004.5-3]. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent’s death shall not be processed for distribution. *Id.*

F. Oversight. The Trust Enrollment Department shall be delegated the oversight and management of the Oneida Life Insurance Plan. [10 O.C. 1004.5-4].

G. Evidence as to Passing or Status. The Law provides the following rules relating to determination of death and status are applicable: a certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death, and the identity of the decedent; a certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, of a decedent’s death; and

124 a person who is absent for a continuous period of seven (7) years, during which they have not been
125 heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is
126 presumed to be dead. Their death is presumed to have occurred at the end of the period unless there is
127 sufficient evidence for determining that death occurred earlier. [10 O.C. 1004.6-1].

128 **H. *Effect of Homicide on Beneficiary Designation.*** The Law provides that a designated beneficiary who
129 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits passing
130 under this law. [10 O.C. 1004.6-2].

131 **I. *Distribution.*** The Law provides that the Oneida Life Insurance Plan benefits shall be distributed in the
132 following order: (1) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
133 invoice therefrom; then residual benefits shall be paid to the designated beneficiary. [10 O.C. 1004.6-
134 3].

135 **J. *Funding.*** The Oneida Life Insurance Plan shall be contingent on funding by the Nation. [10 O.C.
136 1004.7-1].

137 **K. *Delegation of Rulemaking Authority.*** The Oneida Trust Enrollment Department is delegated
138 administrative rulemaking authority in accordance with the Administrative Rulemaking law to
139 promulgate rules to govern the administration of the Oneida Life Insurance Plan. [10 O.C. 1004.8-1].
140

EXAMPLES

141 **Example 1.** John Doe is an enrolled member of the Nation who designated his wife Jane Doe as his
142 beneficiary on the Oneida Nation Life Insurance Plan beneficiary designation form. John unfortunately
143 passes away. The funeral of John Doe will cost \$12,000. Jane Doe can provide the Oneida Trust Enrollment
144 Department the invoice from the funeral home, and the \$12,000 will be paid through the Oneida Life
145 Insurance Plan directly to the funeral home. After the funeral is paid, there is \$3,000 remaining of the
146 original \$15,000 Oneida Life Insurance Plan benefit. Since Jane is listed as John’s beneficiary, the
147 remaining \$3,000 of benefits will then be given to Jane Doe.
148

149 **Example 2.** John Doe is an enrolled member of the Nation who never found the time to fill out and submit
150 the Oneida Nation Life Insurance Plan beneficiary designation form. John unfortunately passes away. The
151 funeral of John Doe will cost \$12,000. Anyone can provide the Oneida Trust Enrollment Department the
152 invoice from the funeral home, and the \$12,000 will be paid through the Oneida Life Insurance Plan directly
153 to the funeral home. Since there is no beneficiary designated, the remaining \$3,000 of the original \$15,000
154 Oneida Life Insurance Plan benefit remains with the Nation.
155

SECTION 6. EXISTING LEGISLATION

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

- 157
 - 158 **▪ *Oneida General Welfare Law.*** The Oneida General Welfare Law governs how the Nation
159 provides assistance to eligible members on a non-taxable basis, pursuant to the principles of
160 the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits
161 to Tribal members. [10 O.C. 1001.1-1].
 - 162 **▪** The Oneida Life Insurance Plan is hereby established as an approved program of the
163 Nation in accordance with the Oneida General Welfare Law. [10 O.C. 1003.4-1]. The
164 Oneida Life Insurance Plan meets the requirements of the General Test as defined in
165 the Oneida General Welfare Law. [10 O.C. 1003.4-2].
166

- 167 ▪ *Administrative Rulemaking Law.* The Administrative Rulemaking law provides an efficient,
168 effective, and democratic process for enacting and revising administrative rules, to ensure that
169 authorized agencies act in a responsible and consistent manner when enacting and revising
170 administrative rules. [1 O.C. 106.1-2].
- 171 ▪ The Oneida Life Insurance Plan law delegates rulemaking authority to the Oneida Trust
172 Enrollment Department to promulgate rules to govern the administration of the Oneida
173 Life Insurance Plan. [10 O.C. 1004.8-1].
- 174 ▪ Any rules promulgated by the Oneida Trust Enrollment Department must be done in
175 accordance with the process and procedures of the Administrative Rulemaking law.
176

177 **SECTION 7. OTHER CONSIDERATIONS**

- 178 **A. *Deadline for Permanent Adoption of Legislation.*** The emergency adoption of this Law will expire on
179 September 28, 2023.
- 180 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
181 adoption of this Law on a permanent basis within the next four (4) months.
- 182 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
183 legislation except emergency legislation. [1 O.C. 109.6-1] . Oneida Business Committee resolution
184 BC-10-28-20-A, *Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*,
185 provides further clarification on who the Legislative Operating Committee may direct complete a fiscal
186 impact statement at various stages of the legislative process, as well as timeframes for completing the
187 fiscal impact statement.
- 188 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
189 statement be completed.

190

**Title 10. General Welfare Exclusion - Chapter 1004
ONEIDA LIFE INSURANCE PLAN**

1004.1. Purpose and Policy
1004.2. Adoption, Amendment, Repeal
1004.3. Definitions
1004.4. Establishment

1004.5. Qualifications, Designation of Beneficiary, and Notice
1004.6. Beneficiary Claim Process and Distribution
1004.7. Funding
1004.8. Administrative Rulemaking

1004.1. Purpose and Policy

1004.1-1. *Purpose.* The purpose of this law is 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.

(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation’s sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

1004.2. Adoption, Amendment, Repeal

1004.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

1004.2-4. 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.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1004.3. Definitions

1004.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter to the designated beneficiary.

(c) "Decedent" means the deceased person.

(d) "Designated Beneficiary" means any person(s) designated by the enrolled member of the Nation, through the approved beneficiary designation form, to receive all or a portion

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41 of the decedent’s Oneida Life Insurance Plan benefit.

42 (e) “Funeral Expenses” means the cost of the funeral of the decedent accrued and invoiced
43 by the funeral home including, but not limited to, the following:

- 44 (1) funeral planning;
- 45 (2) securing the necessary permits and copies of death certificates;
- 46 (3) preparing the notices;
- 47 (4) sheltering the remains;
- 48 (5) coordinating the arrangements with the cemetery, crematory or other third
49 parties;
- 50 (6) transporting the remains;
- 51 (7) embalming and other preparation;
- 52 (8) viewing, ceremony, or memorial services;
- 53 (9) use of a hearse or limousine;
- 54 (11) a casket, outer burial container or alternate container;
- 55 (11) monuments; and
- 56 (12) cremation or interment.

57 (f) “Nation” means the Oneida Nation.

58 59 **1004.4. Establishment**

60 1004.4-1. *Establishment.* The Oneida Life Insurance Plan is hereby established as an approved
61 program of the Nation in accordance with the Oneida General Welfare law. The purpose of the
62 Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance
63 to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts
64 paid thereafter to the designated beneficiary.

65 1004.4-2. *General Welfare Exclusion.* The Oneida Life Insurance Plan meets the requirements of
66 the General Test as defined in the Oneida General Welfare law; General Criteria as defined in
67 I.R.S. Rev. Proc. 2014-35. Section 5.01(1); and the requirements of the Tribal General Welfare
68 Exclusion Act of 2014, 26 U.S.C. §139E(b).

69 (a) The assistance provided through the Oneida Life Insurance Plan is:

- 70 (1) paid on behalf of the Nation;
- 71 (2) pursuant to an approved program of the Nation;
- 72 (3) does not discriminate in favor of members of the governing body of the Nation;
- 73 (4) available to any eligible member of the Nation who meets the guidelines of the
74 approved program;
- 75 (5) provided for the promotion of general welfare;
- 76 (6) not lavish or extravagant;
- 77 (7) not compensation for services; and
- 78 (8) not a per capita payment.

79 (b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses
80 related to a death as Safe Harbor program for which need is presumed.

81 82 **1004.5. Qualifications, Designation of Beneficiary, and Notice**

83 1004.5-1. *Eligibility.* All members of the Nation shall qualify for benefits from the Oneida Life
84 Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a
85 designated beneficiary.

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86 (a) Newly enrolled members of the Nation shall be covered the date their enrollment
87 application is approved by Oneida Trust Enrollment Committee and Oneida Business
88 Committee.

89 (b) Members of the Nation that have relinquished their membership shall not be covered
90 from the date their relinquishment request is approved by the Oneida Trust Enrollment
91 Committee and Oneida Business Committee.

92 1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust
93 Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust
94 Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to
95 their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

96 (a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the
97 effective date of this law shall remain valid.

98 (b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent
99 did not designate a living beneficiary though the beneficiary designation form.

100 (c) A parent or legal guardian shall complete and submit a beneficiary designation form
101 on behalf of their minor child or ward.

102 (d) Funeral expenses shall be paid directly to the funeral home upon submission of a valid
103 invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated
104 beneficiary has not been designated.

105 1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one
106 (1) year of the member of the Nation’s death in order to distribute the Oneida Life Insurance Plan
107 benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary
108 of the decedent’s death shall not be processed for distribution.

109 1004.5-4. *Oversight.* The Oneida Trust Enrollment Department shall be delegated the oversight
110 and management of the Oneida Life Insurance Plan.

111

112 **1004.6. Beneficiary Claim Process and Distribution**

113 1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules
114 relating to determination of death and status are applicable:

115 (a) A certified or authenticated copy of a death certificate purporting to be issued by an
116 official or agency of the place where the death purportedly occurred is prima facie proof
117 of the fact, place, date and time of death, and the identity of the decedent;

118 (b) A certified or authenticated copy of any record or report of a governmental agency,
119 domestic or foreign, of a decedent’s death; and

120 (c) A person who is absent for a continuous period of seven (7) years, during which they
121 have not been heard from, and whose absence is not satisfactorily explained after diligent
122 search or inquiry is presumed to be dead. Their death is presumed to have occurred at the
123 end of the period unless there is sufficient evidence for determining that death occurred
124 earlier.

125 1004.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who
126 criminally and intentionally causes the death of the decedent shall not be entitled to any benefits
127 passing under this law.

128 1004.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following
129 order:

Draft 2 – PM Draft
2023 05 17

130 (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid
131 invoice therefrom;

132 (1) Any expenses beyond the funeral expenses shall be the responsibility of the
133 beneficiary, family of the decedent, or any other responsible parties.

134 (b) Residual benefits shall be paid to the designated beneficiary.
135

136 **1004.7. Funding**

137 1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding by the
138 Nation's.

139

140 **1004.8. Administrative Rulemaking**

141 1004.8-1. *Delegation of Administrative Rulemaking Authority.* The Oneida Trust Enrollment
142 Department shall be delegated administrative rulemaking authority in accordance with the
143 Administrative Rulemaking law to promulgate rules to govern the administration of the Oneida
144 Life Insurance Plan.

145

146 *End.*

147

148 Emergency Adopted – BC-09-28-22-C

149 Emergency Extension – BC-03-22-23-C

150 Adopted – BC-__-__-__-__

151



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *Direct that the Oneida Nation of Wisconsin Organizational Structure return back to the state that it was prior to the Oneida Nation of Wisconsin shutting down due to Covid 19 In March of 2020, which will include the return of all departments, programs, services and the employees of those areas of the Oneida Nation of Wisconsin effective the Monday following this General Tribal Council Meeting;*
- *Direct that any and all changes made to the Oneida Nation of Wisconsin Organizational Structure (including boards, committees, and commissions) during the Covid-19 crisis from March 2020 to present (the day of this meeting) are hereby “Null and Void” effective immediately;*
- *Direct that any and all organizational structural changes (including boards, committees, and commissions) shall be brought before the General Tribal Council in a separate GTC meeting scheduled for the solely purpose of presenting, reviewing, discussing and receiving approval/denial/modification(s) by the General Tribal Council PRIOR to ANY changes being implemented;*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Direct that the Oneida Nation Organizational Structure Return to the Previous State it was Prior to March 2020 and forward to the Oneida Business Committee.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *Direct transportation be made available by the Oneida Nation of Wisconsin to transport Oneida Enrolled Tribal Members to and from GTC Meetings from the areas with large populations of Oneida Enrolled Tribal Members as follows:*
 - *Oneida Transit System will transport enrolled tribal members to and from the GTC Meetings within the Oneida Reservation Boundaries and the north, east and south sides of Green Bay at the cost of \$10 round trip.*
 - *Coach buses will be scheduled to transport enrolled tribal members to and from the GTC Meetings and elections as follows:*
 - *The first 100 enrolled tribal members in Milwaukee on a first come/first serve basis at a cost of \$25 round trip*
 - *The first 100 enrolled tribal members in Madison on a first come/first serve basis at a cost of \$25 round trip*
 - *The first 100 enrolled tribal members in Chicago on a first come/first serve basis at a cost of \$50 round trip*
- *Direct the new transportation requirements shall go into effect immediately and all transportation payments received shall be applied towards the cost of providing these transportation services to membership; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings

Summary

This petition requests the General Tribal Council to consider directing that transportation be made available by the Nation to transport enrolled members to and from General Tribal Council meetings from areas with large populations of enrolled members, such as Green Bay, Milwaukee, Madison, and Chicago. This petition also calls for the new transportation requirements to go into effect immediately, and that all transportation payments received be applied towards the cost of providing these transportation services to membership.

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

Date: May 3, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *Direct transportation be made available by the Oneida Nation of Wisconsin to transport Oneida Enrolled Tribal Members to and from GTC Meetings from the areas with large populations of Oneida Enrolled Tribal Members as follows:*
 - *Oneida Transit System will transport enrolled tribal members to and from the GTC Meetings within the Oneida Reservation Boundaries and the north, east and south sides of Green Bay at the cost of \$10 round trip.*

- *Coach buses will be scheduled to transport enrolled tribal members to and from the GTC Meetings and elections as follows:*
 - *The first 100 enrolled tribal members in Milwaukee on a first come/first serve basis at a cost of \$25 round trip*
 - *The first 100 enrolled tribal members in Madison on a first come/first serve basis at a cost of \$25 round trip*
 - *The first 100 enrolled tribal members in Chicago on a first come/first serve basis at a cost of \$50 round trip*
- *Direct the new transportation requirements shall go into effect immediately and all transportation payments received shall be applied towards the cost of providing these transportation services to membership; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

Funding Transportation for General Tribal Council Meetings

The Petition requests that the General Tribal Council direct that transportation be made available by the Nation to transport enrolled members to and from General Tribal Council meetings from areas with large populations of enrolled members, such as Green Bay, Milwaukee, Madison, and Chicago. The Petition also calls for the new transportation requirements to go into effect immediately, and that all transportation payments received be applied towards the cost of providing these transportation services to membership.

Article IV, Section 1 of the Constitution and Bylaws of the Oneida Nation grants the General Tribal Council the power to “manage all economic affairs and enterprises of the Oneida Nation” and to “promulgate and enforce ordinances . . . providing for the . . . appropriation of available tribal funds for public purposes. . . .” [*Oneida Nation Constitution Article IV Section 1(e) and (f)*]. Subject to its review, the General Tribal Council has delegated the authority set forth in Article IV of the Constitution to the Oneida Business Committee.

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.¹ The Fiscal Year 2023 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. Therefore, any allocation of funding to support the requests of this Petition during the Fiscal Year 2023 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 are required to 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 is required to provide the Oneida Business Committee a written fiscal analysis and any input on the potential

¹ 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 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*.

budget amendment. *Id.* The Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation. *Id.* The Oneida Business Committee is then required to 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 any allocation of funding to support the requests of this Petition 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 the requests of this Petition for future fiscal years would be required 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: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings would have the following legislative effects:

1. The Petition’s directive for the General Tribal Council to direct that transportation to be made available by the Nation to transport enrolled members to and from General Tribal Council meetings from areas with large populations of enrolled members, such as Green Bay, Milwaukee, Madison, and Chicago effective immediately, while also requiring that all transportation payments received be applied towards the cost of providing these transportation services to membership would impact the Budget and Finances law.
 - a. The Fiscal Year 2023 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration, so any call of action for an allocation of funding to support the requests of this Petition during Fiscal Year 2023 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. Unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2023 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.

- b. Any allocation of funding to support the requests of this Petition for future fiscal years would be required 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: L. Dallas – Direct Transportation be Made Available by the Oneida Nation to Areas with Large Populations of Oneida Enrolled Members to and from General Tribal Council Meetings.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *To direct that the Chief Counsel position of the Oneida Nation of Wisconsin shall:
 - *Receive its directives from the General Tribal Council and only the General Tribal Council;*
 - *Report directly to the General Tribal Council and only the General Tribal Council;*
 - *Seek approval from the General Tribal Council prior to acting outside the authority delegated by the General Tribal Council;*
 - *Have its wage/salary and its contract determined and approved by the General Tribal Council;*
 - *Shall assist the Oneida Business Committee and all other Boards, Committees, and Commissions, the Oneida Nation of Wisconsin organization, entities, corporations, etc. in compliance with all legal, regulatory, statutory, and compliance matters;*
 - *Shall not represent the Oneida Business Committee or any other person or party during the General Tribal Council meetings;*
 - *Shall not present legal advice and/or opinions or engage in any other action with, for or on behalf of the Oneida Business Committee during General Tribal Council Meetings;*
 - *Shall only participate in General Tribal Council Meetings as an enrolled Tribal member, unless specifically directed otherwise by the General Tribal Council;*
 - *Be held accountable by the General Tribal Council regarding any and all matters; and**
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position

Summary

This petition requests the General Tribal Council to consider directing that the Chief Counsel position will have its salary and contract determined and approved by the General Tribal Council; that the General Tribal Council will be responsible for determining the roles and responsibilities of the Chief Counsel position; and that the Chief Counsel position will be supervised by the General Tribal Council.

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

Date: May 5, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *Direct that the Chief Counsel position of the Oneida Nation of Wisconsin shall:*
 - *Receive its directives from the General Tribal Council and only the General Tribal Council;*
 - *Report directly to the General Tribal Council and only the General Tribal Council;*
 - *Seek approval from the General Tribal Council prior to acting outside the authority delegated by the General Tribal Council;*
 - *Have its wage/salary and its contract determined and approved by the General Tribal Council;*
 - *Shall assist the Oneida Business Committee and all other Boards, Committees, and Commissions, the Oneida Nation of Wisconsin*

organization, entities, corporations, etc. in compliance with all legal, regulatory, statutory, and compliance matters;

- *Shall not represent the Oneida Business Committee or any other person or party during the General Tribal Council meetings;*
- *Shall not present legal advice and/or opinions or engage in any other action with, for or on behalf of the Oneida Business Committee during General Tribal Council Meetings;*
- *Shall only participate in General Tribal Council Meetings as an enrolled Tribal member, unless specifically directed otherwise by the General Tribal Council;*
- *Be held accountable by the General Tribal Council regarding any and all matters; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

Consideration and Approval of Chief Counsel Employment Contract

The Petition calls for the General Tribal Council to direct that the Chief Counsel position have its salary and contract determined and approved by the General Tribal Council.

The Attorney Contract Policy regulates the utilization of attorneys within the Oneida Nation organization and attorneys and firms hired on retainer outside the Oneida Nation organization to maximize the professional services and reduce conflict among professionals. [2 O.C. 216.1-1]. The Attorney Contract Policy provides that all attorney contracts are required to be approved by the Oneida Business Committee, and all attorney contracts be signed by the Oneida Business Committee chairperson and one officer of the Oneida Business Committee on behalf of the Oneida Nation. [2 O.C. 216.4-1, 216-4-2].

The Attorney Contract Policy requires that contracts for attorneys retained by the Nation, including the Chief Counsel position, contain information that clearly indicates a clear description of the compensation. [2 O.C. 216.5-2(e)]. Compensation is defined as a payment made to an attorney for the purpose of reimbursement of time, office expenses, travel, support staff, or other costs associated with rendering legal services as further defined or limited within a contract. [2 O.C. 216.5-2(e)].

Therefore, the Petition's request for the General Tribal Council direct that the Chief Counsel position will have its salary and contract determined and approved by the General Tribal Council

conflicts with the Attorney Contract Policy's delegation of authority to the Oneida Business Committee to approve attorney contracts on behalf of the Nation.

Supervision of Chief Counsel Position

The Petition calls for the General Tribal Council to direct that the General Tribal Council be responsible for supervising the Chief Counsel position by directing that the Chief Counsel position report directly to the General Tribal Council, requiring the Chief Counsel position to seek approval from the General Tribal Council prior to acting outside of the authority delegated by the General Tribal Council, and be held accountable by the General Tribal Council regarding all matters.

Resolution BC-02-08-23-C, *Setting Supervision and Management of Direct Reports to the Oneida Business Committee and Professional Support Staff*, identifies the Chief Counsel position as a direct report to the Oneida Business Committee. The Oneida Business Committee identifies direct reports due to the direct contact and supervision by the Oneida Business Committee the positions require because of the position, the duties, or the services provided by the positions. Resolution BC-02-08-23-C provides that the Oneida Business Committee delegates the authority and responsibility of administrative supervision of direct reports – which includes the Chief Counsel position - to the officers who are identified as the Oneida Business Committee chairperson, vice-chairperson, treasurer, secretary, and Legislative Operating Committee chairperson. Administrative supervision is defined as matters involving the individual personnel requests such as use of personal or vacation time, and performance tracking. Resolution BC-02-08-23-C further provides that the Oneida Business Committee delegates the authority and responsibility of providing direction to direct reports regarding organizational activities to the same officers. Direction regarding organizational activities is defined as providing advice and opinion regarding the policy decisions made by the Oneida Business Committee but excludes the authority to direct specific action.

The General Tribal Council adopted the Oneida Personnel Policies and Procedures to provide the Nation's employee related policies and procedures including policies regarding recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. Overall, the Oneida Personnel Policies and Procedures provides the various roles and responsibilities of the Nation's Human Resources Department, supervisors, employees, Oneida Personnel Commission, and the Oneida Nation Judiciary in regard to the management of employees of the Nation. As the delegated supervisor of the Chief Counsel, the Oneida Business Committee is responsible for the management of the Chief Counsel position. The Oneida Business Committee is involved in the hiring and selection of the Chief Counsel position. *[Oneida Personnel Policies and Procedures Section III]*. As an immediate supervisor, the Oneida Business Committee is required to conduct annual evaluations of the Chief Counsel position. *[Oneida Personnel Policies and Procedures Section V.B.a]*. The Oneida Business Committee is then responsible for holding the Chief Counsel position accountable by

investigating complaints and issuing discipline when necessary for unsatisfactory work performance or adverse behaviors. *[Oneida Personnel Policies and Procedures Section V.D]*. Throughout all the various process and procedures regarding the management and supervision of an employee contained within the Oneida Personnel Policies and Procedures, in no instance is the General Tribal Council involved in employment matters in any way or granted any authority over the management and supervision of an employment position.

Therefore, the Petition's request for the General Tribal Council to essentially supervise the Chief Counsel position conflicts with the delegation of authority to the Oneida Business Committee to serve as supervisor of the Chief Counsel position as provided for in Resolution BC-02-08-23-C as well as the Oneida Personnel Policies and Procedures.

Determination of Role and Responsibilities of Chief Counsel

The Petition calls for the General Tribal Council to direct that the Chief Counsel position receive all its directives from the General Tribal Council, and then provides further specifications on the scope of authority and work completed by the Chief Counsel by directing that the Chief Counsel shall assist the Oneida Business Committee and all entities of the Nation in compliance with all legal, regulatory, statutory, and compliance matters; shall not represent the Oneida Business Committee or any other person or party during the General Tribal Council meetings; shall not present legal advice and/or opinions or engage in any other action with, for or on behalf of the Oneida Business Committee during General Tribal Council meetings; and shall only participate in General Tribal Council meetings as an enrolled member of the Nation, unless specifically directed otherwise by the General Tribal Council.

The Attorney Contract Policy requires that contracts for attorneys retained by the Nation, including the Chief Counsel position, contain information that clearly indicates what services and/or deliverables will be rendered under the contract. *[2 O.C. 216.5-2(d)]*. The contract approved by the Oneida Business Committee will contain specifications as to the role of Chief Counsel. *[2 O.C. 216.4-1]*. This statement of effect did not review the Chief Counsel employment contract.

The Oneida Personnel Policies and Procedures requires job descriptions for all employment positions, and requires that job descriptions contain the following information:

- Job title, division/department, location, supervisor's title;
- Posting date, application deadline, preferred starting date, date of job, description review;
- Pay level (grade, step, hourly rate);
- A brief job summary;
- Duties and responsibilities;
- Qualifications;
- Inquiry address; and

- Statement of compliance with EEO and Indian Preference policies. [*Oneida Personnel Policies and Procedures Section III.B.3.c.4*].

The Human Resources Department Manager, supervisor, and the Area Manager are responsible for the development and review of job descriptions. [*Oneida Personnel Policies and Procedures Section III.B.3.c.2-3*]. As the supervisor of the Chief Counsel position, as provided for in resolution BC-02-08-23-C, the Oneida Business Committee is responsible for developing and reviewing the job description for the Chief Counsel position with the Human Resources Department. This statement of effect did not review the job description for the Chief Counsel position.

The Attorney Contract Policy outlines some responsibilities of the Chief Counsel position. The Attorney Contract Policy establishes the Oneida Law Office, which consists of a Chief Counsel, Deputy Chief Counsel, attorneys, and office staff. [*2 O.C. 216.7-1*]. Chief Counsel serves as the supervising attorney of the Oneida Law Office. [*2 O.C. 216.3-1(c)*]. The Oneida Law Office is designated as the legal office of the Nation. [*2 O.C. 216.7-2*]. It is the policy of the Nation to utilize a centralized legal office to ensure efficiency and cost effectiveness. [*2 O.C. 216.1-2*]. All legal opinions regarding the interpretation of laws, policies, regulations, codes, procedures, and the like promulgated, adopted, approved or otherwise by the Nation are not binding unless approved by the Oneida Law Office. [*2 O.C. 216.7-2*].

In regard to the contracting of attorneys for the Nation, all attorney contracts are required to be contracted through the Chief Counsel's office and supervised by the Chief Counsel. [*2 O.C. 216.4-2*]. There are only a couple exceptions to the requirement that the Chief Counsel supervise attorneys of the Nation, which include attorneys retained by the Judiciary, attorneys retained by the Compliance Division-Employee Advocate Office, and other offices which represents persons against the interests of the Nation as a service offered by the Nation. [*2 O.C. 216.4-3(a)-(c)*]. Chief Counsel has the authority to approve exceptions to clauses that are required by the Attorney Contract Policy to be included in attorney contracts. [*2 O.C. 216.5-1*]. Negotiation for services to be rendered in attorney contracts is the responsibility of the hiring party, but final negotiation regarding payment is handled by Chief Counsel. [*2 O.C. 216.6-2*]. The Chief Counsel is then responsible for completing the negotiation of an attorney contract and forwarding it to the Oneida Business Committee for approval. [*2 O.C. 216.6-4*].

Therefore, the Petition's request for the General Tribal Council to determine the role and responsibilities of the Chief Counsel position would conflict with the Attorney Contract Policy and the Oneida Personnel Policies and Procedures delegation of authority to the Oneida Business Committee to set forth an employment contract and job description that includes the roles and responsibilities of the Chief Counsel position.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position would have the following legislative effects:

1. The Petition’s request for the General Tribal Council direct that the Chief Counsel position will have its salary and contract determined and approved by the General Tribal Council conflicts with the Attorney Contract Policy’s delegation of authority to the Oneida Business Committee to approve attorney contracts on behalf of the Nation.
2. The Petition’s request for the General Tribal Council to essentially supervise the Chief Counsel position conflicts with the delegation of authority to the Oneida Business Committee to serve as supervisor of the Chief Counsel position as provided for in Resolution BC-02-08-23-C as well as the Oneida Personnel Policies and Procedures.
 - a. Resolution BC-02-08-23-C identifies the Chief Counsel position as a direct report to the Oneida Business Committee, and delegates the authority and responsibility for the administrative supervision of the Chief Counsel position to the officers, who are identified as the Oneida Business Committee chairperson, vice-chairperson, treasurer, secretary, and Legislative Operating Committee chairperson.
 - b. The General Tribal Council adopted the Oneida Personnel Policies and Procedures to provide the Nation’s employee related policies and procedures including policies regarding recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. Overall, the Oneida Personnel Policies and Procedures provides the various roles and responsibilities of the Nation’s Human Resources Department, supervisors, employees, Oneida Personnel Commission, and the Oneida Nation Judiciary in regard to the management of employees of the Nation. As the delegated supervisor of the Chief Counsel, the Oneida Business Committee is responsible for the management of the Chief Counsel position. Throughout all the various process and procedures regarding the management and supervision of an employee contained within the Oneida Personnel Policies and Procedures, in no instance is the General Tribal Council involved in employment matters in any way or granted any authority over the management and supervision of an employment position.
3. The Petition’s request for the General Tribal Council to essentially determine the roles and responsibilities of the Chief Counsel position would conflict with the Attorney Contract Policy and the Oneida Personnel Policies and Procedures delegation of authority to the Oneida Business Committee to set forth an employment contract and job description that includes the roles and responsibilities of the Chief Counsel position.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Directives for Oneida Nation Chief Counsel Position.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *To direct a full and detailed disclosure of all funds/funding received from ANY source during the Covid-19 Worldwide Health Crisis from March 2020 through the time of this meeting;*
- *To direct a full and detailed disclosure of all expenditures and the funding source for those expenditures during the Covid 19 Worldwide Health Crisis from March 2020 through the time of this meeting;*
- *To direct a full and detailed disclosure of any funds leftover and if there are funds leftover, what is going to be done with those funds;*
- *To direct a full and detailed disclosure of every single organizational change that has taken place during the Covid-19 Worldwide Health Crisis from March 2020 through the time of this meeting;*
- *To direct a full and detailed disclosure of what positions were eliminated, what the elimination was based on, how many positions were positions held by Oneida Enrolled Tribal Members;*
- *To direct a full and detailed disclosure of what positions were kept, what was the basis for keeping the position,*
- *To direct a full and detailed explanation of the terminology used (i.e. essential, non-essential, etc.), who made the determinations, and what was used to justify the determinations of who was essential, non-essential etc.;*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020-Present

Summary

This petition requests the General Tribal Council to consider directing the disclosure of all funds received, expenditures made, and organizational changes from March 2020 to present day.

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

Date: May 12, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020 - Present (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *To direct a full and detailed disclosure of all funds/funding received from ANY source during the Covid-19 Worldwide Health Crisis from March 2020 through the time of this meeting;*
- *To direct a full and detailed disclosure of all expenditures and the funding source for those expenditures during the Covid 19 Worldwide Health Crisis from March 2020 through the time of this meeting;*
- *To direct a full and detailed disclosure of any funds leftover and if there are funds leftover, what is going to be done with those funds;*
- *To direct a full and detailed disclosure of every single organizational change that has taken place during the Covid-19 Worldwide Health Crisis from March 2020 through the time of this meeting;*

- *To direct a full and detailed disclosure of what positions were eliminated, what the elimination was based on, how many positions were positions held by Oneida Enrolled Tribal Members;*
- *To direct a full and detailed disclosure of what positions were kept, what was the basis for keeping the position;*
- *To direct a full and detailed explanation of the terminology used (i.e. essential, non-essential, etc.), who made the determinations, and what was used to justify the determinations of who was essential, non-essential etc.;*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

Disclosure of Information

The Petition requests that the General Tribal Council direct the disclosure of various information regarding funds received, expenditures made, and organizational changes from March 2020 to present day.

There is no legislative impact in regard to the Petition's request that there be a financial disclosure made to the General Tribal Council regarding all funds received from any source, all expenditures and the funding source for those expenditures, and any remaining funds and a plan for expending those funds from March 2020 to present day.

The Petition also requests that there be a disclosure made to the General Tribal Council regarding all organizational changes made from March 2020 to present day, including details on what positions were eliminated or maintained, and an explanation for how those decisions were made. Regulations regarding the protection of personnel records is governed by the Oneida Personnel Policies and Procedures. [1 O.C. 107.4-3]. The Human Resources Department is required to maintain a complete record of each employee throughout their term of employment, which includes information such as reference data, job descriptions, resumes and applications, interview notes/selection information, resignations, employee tax exemption claims, disciplinary action information, performance evaluations, insurance coverage/changes, and transfers. [Oneida Personnel Policies and Procedures Section VIII.A]. Employment files kept by the Human Resources Department are considered confidential information, and release of any information to a third party must have the consent of the employee in writing. [Oneida Personnel Policies and Procedures Section VIII.A.2.b]. As long as the requested disclosure of information for organization and employment changes does not violate any employee's right to confidentiality of their

employment records, as provided by the Oneida Personnel Policies and Procedures, there is no legislative impact.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020 - Present would have the following legislative effect:

1. There is no legislative impact in regard to the Petition’s request that there be a financial disclosure made to the General Tribal Council regarding all funds received from any source, all expenditures and the funding source for those expenditures, and any remaining funds and a plan for expending those funds from March 2020 to present day.
2. The Petition also requests that there be a disclosure made to the General Tribal Council regarding all organizational changes made from March 2020 to present day, including details on what positions were eliminated or maintained, and an explanation for how those decisions were made. As long as the requested disclosure of information for organization and employment changes does not violate any employee’s right to confidentiality of their employment records, as provided by the Oneida Personnel Policies and Procedures, there is no legislative impact.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Disclosure of Funds, Expenditures, and Organizational Changes from March 2020 - Present.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election

Submission Date: 5/3/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called prior to the 2023 General Election to consider the following:*

- *Make emergency amendments to the Oneida Nation of Wisconsin Election law that will be effective for the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections and all elections held thereafter. The emergency amendments shall include, but are not limited to, the following:*
 - *Entire Election Process shall be conducted under audio and video recording*
 - *Counting of the ballots for any part of the election process(es) (i.e., the day of election, for recounts, ties, etc.) shall be conducted in a facility large enough to conduct the ballot counting process(es) in a restricted area in the presence of the General Tribal Council*
 - *Ballots shall always be kept under audio and video surveillance*
 - *Poll Watchers from the point the ballots being retrieved to the point the ballots are placed back under surveillance in a secure area.*
 - *Remove any and all Oneida Business Committee Members from the Election Processes*
 - *Declaration of the Election Results shall be brought to the General Tribal Council for review, discussion and approval, denial or modification by the General Tribal Council only*
 - *Filling vacancies*
 - *Election Outcomes and Ties*
 - *Recount Process*
- *To direct that the emergency amendments shall apply to the 2023 Oneida Nation of Wisconsin Tri-Annual General Elections; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

4/26/23 OBC: Motion by Marie Cornelius to acknowledge receipt of the petition from Linda Dallas regarding Emergency Amendments to the Election Law for the 2023 General Election; to direct the BC

Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, May 17, 2023; 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 May 24, 2023, regular Business Committee meeting agenda and the first BC meeting of the month thereafter or until the final documents are submitted, seconded by Brandon Stevens. Motion carried.

5/3/23 LOC: Motion by Marie Cornelius to add the Petition: L. Dallas – Emergency Amendments to the Election Law for 2023 General Election with all LOC members as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

Next Steps:

- Accept the status update memorandum for Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election and forward to the Oneida Business Committee.



TO: Oneida Business Committee
 FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney
 DATE: May 24, 2023
 RE: Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election

On April 14, 2023, the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and has since been verified by the Oneida Trust Enrollment Department on April 17, 2023. On April 26, 2023, 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 May 24, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On May 3, 2023, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The Legislative Reference Office is currently developing the statement of effect for this Petition. It is the intention of the Legislative Reference Office that the statement of effect for the Petition be submitted for inclusion on the June 14, 2023, Oneida Business Committee meeting agenda.

Requested Action

Accept the status update regarding the statement of effect for the Petition: L. Dallas – Emergency Amendments to the Election Law for the 2023 General Election.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *To direct a detailed report regarding the Advocacy Training that was directed by the GTC to occur via the Oneida Judiciary; and*
- *To enforce the GTC directive to provide Advocacy Training to Oneida Enrolled Tribal Members;*
- *To direct the Advocacy Training be held on a quarterly basis during both the day and evening hours to ensure a greater opportunity for the membership to participate; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training

Summary

This petition requests the General Tribal Council to consider directing a report be developed regarding advocacy training that was directed by the General Tribal Council to occur through the Oneida Nation Judiciary, enforcement of the directive to provide advocacy training to enrolled members of the Nation, and direct that the advocacy training be held on a quarterly basis both during the day and the evening hours.

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

Date: May 10, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *To direct a detailed report regarding the Advocacy Training that was directed by the GTC to occur via the Oneida Judiciary; and*
- *To enforce the GTC directive to provide Advocacy Training to Oneida Enrolled Tribal Members;*
- *To direct the Advocacy Training be held on a quarterly basis during both the day and evening hours to ensure a greater opportunity for the membership to participate; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

General Tribal Council Directive for Advocacy Training

At the November 14, 2016, General Tribal Council meeting, the General Tribal Council directed the Oneida Business Committee to establish a legal office consisting of advocates and an advising attorney for General Tribal Council which would be elected by General Tribal Council at the 2017 General Election to represent employees employed by the Oneida Nation and Tribal enrolled members that have any type of litigation at the Oneida Judiciary, and to retain legal counsel specifically for General Tribal Council to advise during duly called General Tribal Council meetings. The General Tribal Council clarified that the office would not report to the Oneida Business Committee, but to the General Tribal Council on an annual and semi-annual schedule. The General Tribal Council then directed that this office provide training on a bi-annual basis that includes, but is not limited to, training in judiciary laws, processes, procedures, and Tribal laws that apply to it, representation of matters in front of the Judiciary, to be open to all Tribal members, and to begin in fiscal year 2018. It is presumed that this is the General Tribal Council directive this Petition references.

Legal Resource Center Law

The Oneida General Tribal Council Ten Day Notice Policy requires that motions or resolutions that have been passed by the General Tribal Council shall be carried out and adhered to whole heartedly by the Oneida Business Committee or as directed by the General Tribal Council. [1 O.C. 110.3-1(b)(1)(B), 110.6-5(a)]. In an effort to fulfill the November 14, 2016, General Tribal Council directive, on May 24, 2017, the Oneida Business Committee adopted the Legal Resource Center law on an emergency basis through the adoption of resolution BC-05-24-17-A, *Legal Resource Center Emergency Law*. The Legislative Procedures Act grants the Oneida Business Committee the authority to temporarily enact legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. The emergency adoption of the Legal Resource Center law was necessary for the preservation of the general welfare of the Reservation population in order to ensure that the two (2) advocates on the ballot for the July 8, 2017, General Election would have the proper legislation in place to provide structure to the Legal Resource Center. The observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest since the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Legal Resource Center was established in accordance with the 2017 General Election deadline established by the General Tribal Council.

The Oneida Business Committee then adopted the Legal Resource Center law on a permanent basis on September 13, 2017, through the adoption of resolution, BC-09-13-17-L, *Legal Resource Center*.

The Legal Resource Center law establishes a Legal Resource Center to provide legal advice and representation to both members of the Nation and employees in cases before the Judiciary and to represent the General Tribal Council at General Tribal Council meetings. [8 O.C. 811.1-1]. It is the policy of the Nation to provide legal assistance to its members and employees in an effort to protect individual rights. [8 O.C. 811.1-2]. The Legal Resource Center law does address the General Tribal Council directive that there be training provided on a bi-annual basis that includes, but is not limited to, training in judiciary laws, processes, procedures, and Tribal laws that apply to it, representation of matters in front of the Judiciary. The Legal Resource Center law provides that the Legal Resource Center attorney shall have the responsibility to provide bi-annual training starting in Fiscal Year 2018 that is open to all Tribal members and includes, but is not limited to, training on the Oneida Code of Laws and the Judiciary's processes and procedures. [8 O.C. 811.5-3(n)]. The Legal Resource Center law provided that if there is no Legal Resource Center attorney in office, then the Legal Resource Center advocates shall share the responsibility to provide the trainings. [8 O.C. 811.4-5, 811.6-3(g)].

The Legal Resource Center law also requires that the Legal Resource Center attorney provide annual and semi-annual reports to the General Tribal Council. [8 O.C. 811.5-3(g)]. In the absence of a Legal Resource Center attorney in office, then the Legal Resource Center advocates shall share the responsibility to provide the General Tribal Council annual and semi-annual reports. [8 O.C. 811.4-5, 811.6-3(g)].

Directives of this Petition

The Petition's request for the General Tribal Council to direct a report be developed regarding the training that was directed by the General Tribal Council at the November 14, 2016, General Tribal Council meeting, as well as the request for the enforcement of this directive are both supported by the Legal Resource Center law. The Legal Resource Center law requires annual and semi-annual reports to the General Tribal Council by either the Legal Resource Center attorney or advocates. [8 O.C. 811.5-3(g), 811.4-5, 811.6-3(g)]. Information regarding whether or not the Legal Resource Center attorney and advocates have complied with the directive to provide training may be included in future annual or semi-annual reports. There is no legislative impact if the General Tribal Council requests additional reporting on this subject matter. Additionally, the Legal Resource Center law very clearly requires that the Legal Resource Center attorney, or the advocates in their absence, provide bi-annual training that is open to all members of the Nation and includes, but is not limited to, training on the Oneida Code of Laws and the Judiciary's processes and procedures. [8 O.C. 811.5-3(n)]. This training was directed to begin in Fiscal Year 2018. Any inaction of the Legal Resource Center attorney or advocates to provide the mandated

training is not only a violation of the Legal Resource Center law, but also a violation of the November 14, 2016, General Tribal Council directive.

The Petition's request for advocacy training to be held on a quarterly basis during both the day and evening hours to ensure a greater opportunity for the membership to participate conflicts with both the November 14, 2016, General Tribal Council directive for training and the Legal Resource Center law. Both the November 14, 2016, General Tribal Council directive and the Legal Resource Center law require *bi-annual* trainings to be provided, not *quarterly* trainings.

The Ten Day Notice Policy requires that any action to overrule a previous passed motion or resolution of the General Tribal Council requires a two-thirds (2/3) majority vote. [1 O.C. 110.3-1(a)(3)]. Therefore, if the General Tribal Council wanted to take action to amend its November 14, 2016, directive for trainings to require that trainings be held on a quarterly basis instead of a bi-annual basis, then a two-thirds (2/3) vote would be required. Then, any amendment to the Legal Resource Center law to revise the bi-annual training requirement to a quarterly training requirement would need to be developed and adopted in accordance with the Legislative Procedures Act.

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training would have the following legislative effect:

1. The Petition's request for the General Tribal Council to direct a report be developed regarding the training that was directed by the General Tribal Council at the November 14, 2016, General Tribal Council meeting, as well as the request for the enforcement of this directive for training to be provided are both supported by the Legal Resource Center law.
 - a. The Legal Resource Center law requires annual and semi-annual reports to be made to the General Tribal Council by either the Legal Resource Center attorney or advocates. Information regarding whether or not the Legal Resource Center attorney and advocates have complied with the directive to provide training may be

included in future annual or semi-annual reports. There is also no legislative impact if the General Tribal Council requests additional reporting on this subject matter.

- b. The Legal Resource Center law very clearly sets forth the requirement that the Legal Resource Center attorney, or the advocates in their absence, provide bi-annual training that is open to all members of the Nation and includes, but is not limited to, training on the Oneida Code of Laws and the Judiciary's processes and procedures. Any inaction of the Legal Resource Center attorney or advocates to provide the mandated training is not only a violation of the Legal Resource Center law, but also a violation of the November 14, 2016, General Tribal Council directive.
2. The Petition's request for advocacy training to be held on a quarterly basis during both the day and evening hours to ensure a greater opportunity for the membership to participate conflicts with both the November 14, 2016, General Tribal Council directive for training and the Legal Resource Center law. Both the November 14, 2016, General Tribal Council directive and the Legal Resource Center law require bi-annual trainings to be provided, not quarterly trainings.
 - a. The Ten Day Notice Policy requires that any action to overrule a previous passed motion or resolution of the General Tribal Council requires a two-thirds (2/3) majority vote. Therefore, if the General Tribal Council wanted to take action to amend its November 14, 2016, directive for trainings to require that trainings be held on a quarterly basis instead of a bi-annual basis, then a two-thirds (2/3) vote would be required.
 - b. Any amendment to the Legal Resource Center law to revise the bi-annual training requirement to a quarterly training requirement would need to be developed and adopted in accordance with the Legislative Procedures Act.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – General Tribal Council Directive Regarding Advocacy Training.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Oneida Nation Disability Fund

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *Update on the Oneida Nation of Wisconsin Disability Fund and what is being done with the funding;*
- *If the Oneida Nation of Wisconsin does not have a Disability Fund established, direct that a Disability Fund be developed and brought back to the GTC within ninety (90) business days for review, discussion, approval and implementation; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Oneida Nation Disability Fund and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Oneida Nation Disability Fund

Summary

This petition requests the General Tribal Council to consider directing an update be provided on the status of the Oneida Nation Disability Fund, and if no such fund exists, that an Oneida Nation Disability Fund be established and brought back to the General Tribal Council for review and approval within ninety (90) days.

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

Date: May 11, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Oneida Nation Disability Fund (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *Update on the Oneida Nation of Wisconsin Disability Fund and what is being done with the funding;*
- *If the Oneida Nation of Wisconsin does not have a Disability Fund established, direct that a Disability Fund be developed and brought back to the GTC within ninety (90) business days for review, discussion, approval and implementation; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

Oneida Nation Disability Fund

The Petition requests the General Tribal Council to direct an update be provided on the status of the Oneida Nation Disability Fund, and if no such fund exists, that an Oneida Nation Disability Fund be established and brought back to the General Tribal Council for review and approval within ninety (90) days.

The legal opinion from the Oneida Law Office reviews the background as well as current status of the Oneida Nation Disability Fund. There are no laws of the Nation that address the Oneida Nation Disability Fund.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Oneida Nation Disability Fund would have no legislative impact.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Oneida Nation Disability Fund.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Repeal and Replace Current Removal Law

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *Repeal Current Removal Law identified in the Oneida Code of Laws under Title I. Government and Finance - Chapter 104, REMOVAL LAW, Adopted GTC-01-09-06-A, and replace it with the New Removal Law attached to this Oneida General Tribal Council Meeting Petition Form, which will cause the removal law to properly align with, uphold and enforce the Oneida Nation of Wisconsin Constitutional provisions regarding the removal of elected of any official on the Business Committee, pursuant to Article 111., Section 3., which states [in part] "The General Tribal Council may at its discretion remove any official on the Business Committee by a two-thirds majority vote at any regular or special meeting of the Tribal Council, pursuant to a duly adopted ordinance . Such ordinance shall fix the specific causes for removal and ensure that the rights of the accused are protected, including his receiving in writing a statement of the charges against him and assurance on sufficient notice thereof where he shall be afforded every opportunity to speak in his own defense"; and*
- *Direct the new Removal Law shall go into effect immediately; and*
- *GTC reserves the right to review, discuss , and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Repeal and Replace Current Removal Law and forward to the Oneida Business Committee.



HANDOUT

Statement of Effect

Petition: L. Dallas – Repeal and Replace Current Removal Law

Summary

This petition requests the General Tribal Council to consider repealing and replacing the current Removal law.

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

Date: May 15, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Repeal and Replace Current Removal Law (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *Repeal Current Removal Law identified in the Oneida Code of Laws under Title I. Government and Finance - Chapter 104, REMOVAL LAW, Adopted GTC-01-09-06-A, and replace it with the New Removal Law attached to this Oneida General Tribal Council Meeting Petition Form, which will cause the removal law to properly align with, uphold and enforce the Oneida Nation of Wisconsin Constitutional provisions regarding the removal of elected of any official on the Business Committee, pursuant to Article III., Section 3., which states [in part] "The General Tribal Council may at its discretion remove any official on the Business Committee by a two-thirds majority vote at any regular or special meeting of the Tribal Council, pursuant to a duly adopted ordinance . Such ordinance shall fix the specific causes for removal and ensure that the rights of the accused are protected, including his receiving in writing a statement of the charges against him and assurance on sufficient notice thereof where he shall be afforded every opportunity to speak in his own defense"; and*
- *Direct the new Removal Law shall go into effect immediately; and*

- *GTC reserves the right to review, discuss , and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

The Legislative Process

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important features of the legislation being considered and factual information to enable the Legislative

Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. 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. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as 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 Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *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 Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1]. The Oneida Business Committee then either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. For those laws considered by the Oneida Business Committee a majority vote is required for the adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previous passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural

requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

Legislative History of the Removal Law

The Removal Law (“Law”) was originally created by the General Tribal Council in 1979 pursuant to Article III, Section 3 of the Constitution and By-Laws of the Oneida Nation (“Constitution”) [See resolution GTC-04-16-79, titled *Ordinance for the Removal of Oneida Tribal Business Committee Members*]. Article III, Section 3 of the Constitution expressly states that:

The General Tribal Council may at its discretion remove any official on the Business Committee by a two-thirds majority vote at any regular or special meeting of the Tribal Council, *pursuant to a duly adopted ordinance*. Such ordinance shall fix the specific causes for removal and ensure that the rights of the accused are protected, including his receiving in writing a statement of the charges against him and assurance on sufficient notice thereof where he shall be afforded every opportunity to speak in his own defense.

The General Tribal Council has since amended the 1979 version of the Removal law, the current version being adopted and minimally amended, respectively, by resolutions GTC-1-09-06-A and BC-05-28-14-B to replace the previous Removal Law, adopted by resolutions BC-1-03-96-B and GTC-1-17-98-A, because the General Tribal Council felt that the previous law was too “confusing and unclear in some areas...” [Resolution GTC-1-09-06-A, p.1]. The General Tribal Council also felt that it was more logical to have different processes for the removal of elected officials versus appointed officials since “officials come to office in a different manner,” and thus, made the current Removal Law apply “to elected officials only,” as opposed to both elected and appointed officials. [Id].

The Removal law provides that an elected official may be removed from office for any of the following reasons:

- failure to attend four (4) regularly scheduled meetings without a written explanation;
- failure to attend fifty percent (50%) of an entity’s regular scheduled meetings within a twelve (12) month period for any reason provided that this subsection shall not apply to the Oneida Business Committee;
- intentional misuse of Tribal funds;
- alcohol use while performing official responsibilities or use of illegal drugs at any time;
- if he or she no longer meets the qualifications for office;
- violating a Tribal law which specifies removal as a penalty; or
- felony conviction while in office. [1 O.C. 104.4-1(a)-(g)].

With respect to the process, the Removal law provides that any eligible voter of the Nation may file a petition with the Nation's Secretary seeking the removal of an elected official so long as the petition contains the requisite number of eligible voter signatures. [1 O.C. 104.5-1]. A petition is required to be signed by fifty (50) or more eligible voters or a number equal to at least thirty (30) percent of the vote cast in the previous general election, whichever is greater. *Id.* The Secretary must then serve the elected official with a certified copy of the petition and forward another to the Judiciary so that it can schedule a preliminary review to determine whether the allegations set forth in the petition would constitute sufficient grounds for removal. [1 O.C. 104.5-6 & 104.6-1]. If the Judiciary determines that sufficient grounds would exist, it is next required to conduct a hearing under Section 104.7 of the Removal law to determine whether each allegation contained in the petition can be proven by clear and convincing evidence. [1 O.C. 104.6-2 & 104.7-3]. If it finds clear and convincing evidence, the Judiciary must then put its findings in written form and forward them to the Oneida Business Committee Chairperson. [1 O.C. 104.7-3]. Upon receipt, the Oneida Business Committee Chairperson is required to call a special General Tribal Council meeting to consider the Judiciary's findings. An elected official may only be removed from office upon a two-thirds (2/3) majority vote in the affirmative. [1 O.C. 104.8-3].

Along with the Constitution, numerous other laws of the Nation refer to and rely upon the existence of a Removal Law to govern the process for removing an elected official when his or her conduct comes into question. For example, the Election law, codified in Chapter 102 of the Oneida Code of Laws, provides that members of the election board shall be removed "pursuant to the Oneida Removal Law." [1 O.C. 102.4-4]. Likewise, the Boards, Committees and Commissions law provides that removal of an elected official shall be "pursuant to any law and/or policy of the Nation regarding removal" [1 O.C. 105.6-2(b)]. Since the Boards, Committees and Commissions law mandates that every board, committee and commission of the Nation create bylaws that conform to its requirements, the elected boards, committees and commissions will have bylaws that refer to and rely upon the Removal Law to dictate the process for removing elected officials from their respective boards, committees and commissions. [See 1 O.C. 105.10-1, "All entities of the Nation shall have bylaws that conform to the requirements of this law."].

Repeal and Replacement of the Removal Law

The Petitioner's request for the General Tribal Council to consider repealing the Removal law, effective immediately, and replacing it with a different version drafted by the Petitioner and attached to this Petition would violate the process and procedures contained within the Legislative Procedures Act.

Through the adoption of the Legislative Procedures Act the General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Procedures Act then provides the Legislative Operating Committee with a process to follow when developing legislation to be considered for adoption,

amendment, or repeal that ensures the public has an opportunity to be involved in the legislative process and provide input, as well as ensures that proper analysis is completed of the proposed legislation so the impact of the legislation is fully understood when it is considered by either the Oneida Business Committee or the General Tribal Council. The Legislative Procedures Act is also very clear that a law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2].

The Petitioner's request to repeal the Removal law and replace it with a different version – essentially amending the Removal law - did not comply with the process and procedures contained in the Legislative Procedures Act. The proposal for the repeal and replacement of the Removal law was not presented to the Legislative Operating Committee for consideration; it did not have a legislative analysis or a fiscal impact statement completed to analyze the impacts of repealing this law; a public meeting and comment period was not held to allow the community the opportunity to provide input on the repeal and replacement of the Removal law; and the potential repeal and replacement of the Removal law was not presented to the Oneida Business Committee or the General Tribal Council via resolution for consideration. This statement of effect did not review or analyze the Petitioner's attached proposed draft of the Removal law, this statement of effect focused on providing the legislative impacts of the requested actions of the Petitioner.

Overall, the Legislative Procedures Act is very clear that although it is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do still apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1]. Therefore, any action of the General Tribal Council to repeal and replace the Removal law without first following the process and procedures of the Legislative Procedures Act would be a violation of the Legislative Procedures Act.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Repeal and Replace Current Removal Law would have the following legislative effect:

1. The Petitioner's request for the General Tribal Council to consider repealing and replacing the Removal law, effective immediately, would violate the Legislative Procedures Act.
 - a. Through the adoption of the Legislative Procedures Act the General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. The Legislative Procedures Act then provides the Legislative Operating Committee with a process to follow when developing legislation to be considered for adoption, amendment, or repeal that ensures the public has an opportunity to be involved in the legislative process and provide input, as well as ensures that proper analysis is completed of the proposed

legislation so the impact of the legislation is fully understood when it is considered by either the Oneida Business Committee or the General Tribal Council. The Legislative Procedures Act is also very clear that a law is adopted, amended, or repealed upon the adoption of a resolution. The Petition's request to repeal and replace the Removal law did not comply with the process and procedures contained in the Legislative Procedures Act. The proposal for the repeal and replacement of the Removal law was not presented to the Legislative Operating Committee for consideration; it did not have a legislative analysis or a fiscal impact statement completed to analysis the impacts of repealing this law; a public meeting and comment period was not held to allow the community the opportunity to provide input on the repeal and replacement of the Removal law; and the potential repeal and replacement of the Removal law was not presented to the Oneida Business Committee or the General Tribal Council via resolution for consideration.

- b. The Legislative Procedures Act is very clear that although it is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do still apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [*1 O.C. 109.1-3, 109.1-1*].

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Repeal and Replace Current Removal Law.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Review and Discuss General Tribal Council’s Delegation of Power and Authorities to all Entities

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *To direct the Oneida Business Committee to provide a complete list and supporting documentation showing any and all actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc.*
- *To direct that a separate GTC meeting be scheduled for the sole purpose of reviewing, discussing, and upholding, overturning and/or modifying any actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc.; and*
- *To direct that separate GTC meetings shall be scheduled and held to address any actions taken by the General Tribal Council that delegated any power and/or authority to any person, board, committee, commission, entity, corporation, organization, etc. in the following order and categories: 1) Committees 2) Boards 3) Commission 4) Entities 5) Corporations 6) Organizations 7) Individuals 8) Anyone or anything not covered in the other seven(7) categories; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Review and Discuss General Tribal Council’s Delegation of Power and Authorities to all Entities and forward to the Oneida Business Committee.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Transitional Housing

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *Review, discuss, and take any action deemed appropriate by the General Tribal Council during the GTC Meeting regarding Transitional Housing as a temporary residence for up to 24 months with wrap-around services to help people stabilize their lives in terms of homelessness, domestic violence, abuse, alcohol and/or drug recovery and/or rehabilitation.*
- *Direct the Oneida Business Committee to present relevant information regarding the costs associated with the current needs and future needs, facility size recommendations, construction costs, location, licensing, accreditation, legal consultation(s), staffing, programming, programing materials, etc.*
- *Alternative Solutions (i.e. partnering, collaborations, inter-tribal business, ere.) with viability, costs, timeframes, etc.*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Transitional Housing and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Transitional Housing

Summary

This petition requests the General Tribal Council to consider reviewing, discussing, and taking action regarding potential options for transitional housing as a temporary residence for up to twenty-four (24) months with wrap-around services provided to help people stabilize their lives in terms of homelessness, domestic violence, abuse, alcohol and/or drug recovery and/or rehabilitation. The Petition also directs that the Oneida Business Committee present relevant budgetary information regarding the costs associated with potential transitional housing initiatives, as well as present alternative solutions.

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

Date: May 9, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Transitional Housing (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *Review, discuss, and take any action deemed appropriate by the General Tribal Council during the GTC Meeting regarding Transitional Housing as a temporary residence for up to 24 months with wrap-around services to help people stabilize their lives in terms of homelessness, domestic violence, abuse, alcohol and/or drug recovery and/or rehabilitation.*
- *Direct the Oneida Business Committee to present relevant information regarding the costs associated with the current needs and future needs, facility size recommendations, construction costs, location, licensing, accreditation, legal consultation(s), staffing, programming, programing materials, etc.*

- *Alternative Solutions (i.e. partnering, collaborations, inter-tribal business, etc.) with viability, costs, timeframes, etc.*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

Addressing Transitional Housing

The Petition calls for the General Tribal Council to review, discuss, and take action regarding potential options for transitional housing as a temporary residence for up to twenty-four (24) months with wrap-around services provided to help people stabilize their lives in terms of homelessness, domestic violence, abuse, alcohol and/or drug recovery and/or rehabilitation. The Petition also directs that the Oneida Business Committee present relevant budgetary information regarding the costs associated with potential transitional housing initiatives, as well as present alternative solutions.

There are no laws of the Nation that directly addressing transitional housing, but the Landlord Tenant law does generally address rental agreements of the Nation. The Landlord Tenant law provides mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs. [6 O.C. 611.1-1]. It is the Nation's policy to provide a fair process to all landlords and tenants of the Nation's rental programs that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

The Landlord Tenant law provides that the Comprehensive Housing Division is responsible for providing residential rental programs to provide housing to the following types of tenants: elder members of the Nation; low-income members of the Nation and their and families; and members of the Nation in general. [6 O.C. 611.4-1]. A rental agreement is a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less. [6 O.C. 611.3-1(e)]. The Oneida Land Commission and the Comprehensive Housing Division are then delegated joint rulemaking authority in accordance with the Administrative Rulemaking law to establish rules naming said rental programs and providing the specific requirements and regulations that apply to each program. [6 O.C. 611.4-1]. In order to be eligible for a rental agreement with the Nation, applicants are required to meet the following conditions:

- Be eighteen (18) years of age at the time of the application;
- Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;

- Meet the local governments' laws' requirements regarding residency restrictions for convicted sex offenders;
- Meet the income requirements for entering the rental agreement as determined by the rental program's governing rules;
- Not hold a residential lease with the Nation; and
- Meet any other eligibility requirements set by the rental program's rules. [6 O.C. 611.4-2].

The Petition's request that the General Tribal Council review, discuss, and take action regarding potential options for transitional housing may conflict with the delegation of authority to the Oneida Comprehensive Housing Division and the Oneida Land Commission through the Landlord Tenant law. The Comprehensive Housing Division is delegated the authority to provide residential rental programs which provide housing to all members of the Nation, and the Comprehensive Housing Division along with the Oneida Land Commission is delegated the authority to establish rules naming said rental programs and providing the specific requirements and regulations that apply to each program. [6 O.C. 611.4-1]. It would be within the authority granted to the Comprehensive Housing Division and the Oneida Land Commission to develop a rental program that catered to members of the Nation's short term transitional housing needs for a variety of circumstances.

The Petition's request that transitional housing options include housing for individuals who may struggle with alcohol or drug abuse, rehabilitation, or recovery could potentially conflict with the Nation's eligibility standards for rental programs that requires that in order to be eligible to participate in a rental program of the Nation an individual have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition. [6 O.C. 611.4-2(b)].

In regard to the Petition's request that transitional housing address situations that involve domestic violence, the Landlord Tenant law addresses domestic violence in a limited capacity. Under the Landlord Tenant law, if a tenant notices the landlord of domestic abuse with approved documentation, regardless of marital status, the landlord is required to change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser. [6 O.C. 611.7-1]. Furthermore, if a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord is required to permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. [6 O.C. 611.7-2]. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord is also required to revise the rental agreement to extend its duration. *Id.* The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction. [6 O.C. 610.5-2, 611.7-3].

Funding Transitional Housing

Any actions taken by the General Tribal Council to address transitional housing that involve any allocation of funding would have a legislative impact.

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 are required to be made 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.¹ The Fiscal Year 2023 budget was

¹ 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 September 30, 2022. The Oneida Business Committee then adopted a continuing resolution BC-09-14-22-D,

adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration. Therefore, any allocation of funding to support the requests 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 are required to 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 is then required to provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. *Id.* The Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation. *Id.* The Oneida Business Committee is required to 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 any allocation of funding to support the requests of this Petition 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 the requests of this Petition for future fiscal years would be required to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.

The Budget and Finances law also specifically addresses capital improvements. A capital improvement is a non-recurring expenditure for physical improvements, including costs for: the acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations; acquisition of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more. [1 O.C. 121.3-1(d)]. The Oneida Business

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.*

Committee is delegated the responsibility to develop, and the General Tribal Council is delegated the responsibility to approve, a capital improvement plan for government services. [1 O.C. 121.6-9(a)]. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. [1 O.C. 121.6-9(a)(1)]. The capital improvement plan for government services shall be reassessed once every five (5) years. [1 O.C. 121.6-9(a)(2)]. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment. *Id.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee delegated the responsibility to approve all capital improvement plans for enterprises. [1 O.C. 121.6-9(b)]. Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity. [1 O.C. 121.6-9(c)].

Therefore, any action taken by the General Tribal Council in regard to this Petition that would involve any capital improvements would need to comply with the requirements of the Budget and Finances law regarding capital improvements.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Transitional Housing would have the following legislative effect:

1. The Petition’s request that the General Tribal Council review, discuss, and take action regarding potential options for transitional housing may conflict with the delegation of authority to the Oneida Comprehensive Housing Division and the Oneida Land Commission through the Landlord Tenant law.
 - a. The Comprehensive Housing Division is delegated the authority to provide residential rental programs which provide housing to all members of the Nation, and the Comprehensive Housing Division along with the Oneida Land Commission is delegated the authority to establish rules naming said rental programs and providing the specific requirements and regulations that apply to each program. It would be within the authority granted to the Comprehensive Housing Division and the Oneida Land Commission to develop a rental program that catered to members of the Nation’s short term transitional housing needs for a variety of circumstances.
2. The Petition’s request that transitional housing options include housing for individuals who may struggle with alcohol or drug abuse, rehabilitation, or recovery could potentially conflict with the Nation’s eligibility standards for rental programs that requires that in order to be eligible to participate in a rental program of the Nation an individual have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition.

3. The Petition's request that transitional housing address situations that involve domestic violence, are addressed by the Landlord Tenant law and Eviction and Termination law in a limited capacity.
 - a. Under the Landlord Tenant law, if a tenant notices the landlord of domestic abuse with approved documentation, regardless of marital status, the landlord is required to change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser.
 - b. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord is required to permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord is also required to revise the rental agreement to extend its duration.
 - c. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.
4. The Petition's directive for the General Tribal Council to take action in regard to transitional housing that would involve any allocation of funding may would have a legislative impact.
 - a. The Fiscal Year 2023 budget was adopted prior to this Petition being submitted or presented to the General Tribal Council for consideration, so any call of action for an allocation of funding to support the requests 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. Unless it is necessary to avoid a budget deficit, an amendment to the Fiscal Year 2023 budget to provide any allocation of funding to support the requests of this Petition would not be permissible under the Budget and Finances law.
 - b. Any allocation of funding to support the requests of this Petition for future fiscal years would be required to be budgeted for in accordance with the process and procedures contained within the Budget and Finances law.
 - c. Any action taken by the General Tribal Council in regard to this Petition that would involve any capital improvements would need to comply with the requirements of the Budget and Finances law regarding capital improvements.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Transitional Housing.



Legislative Operating Committee
May 17, 2023

Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting

Submission Date: 4/7/23

LOC Sponsor: All LOC Members

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following:*

- *To VOID any and all agenda items and/or other matter allegedly presented and allegedly approved by the GTC during the first and only virtual GTC Meeting held on November 15, 2022; and*
- *To direct a detailed itemized report showing legitimate verification of the alleged GTC meeting attendees at and remained in full attendance throughout the entire virtual GTC meeting held on November 15, 2022, with no separation or interruption of virtual attendance; and*
- *To direct a detailed itemized report showing legitimate verification of the alleged participation of the GTC in any/all voting at the virtual GTC Meeting held on November 15, 2022; and*
- *To direct a detailed itemized report showing any and all expenses associated with the virtual GTC Meeting held on November 15, 2022; and*
- *To direct the Oneida Business Committee to bring all of the agenda items that were on the November 15, 2022, GTC Meeting agenda back to GTC, in a separate In-Person meeting only, for presentation, review, discussion, approval/denial/modification by the GTC; and*
- *To direct a moratorium on any and all items that include, but are not limited to, the planning, development, expenditure of any funds of the Oneida Nation of Wisconsin or otherwise, toward anything allegedly presented and allegedly approved by the GTC during the first and only virtual GTC Meeting allegedly held on November 15, 2022; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

3/22/23 OBC: Motion by Lisa Liggins for item X.E.-AB., to acknowledge receipt of the petition; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the TribalSecretary mailbox by Wednesday, April 12, 2023; 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted, seconded by Marie Cornelius. Motion carried.

4/7/23 LOC: Motion by Marie Cornelius to add items IV.1 through IV.24 to the Active Files List with all LOC members as the sponsor; seconded Kirby Metoxen. Motion carried unanimously.

4/19/23 LOC: Motion by Marie Cornelius to accept the memorandum titled, Status Update for Outstanding General Tribal Council Petitions, and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

4/26/23 OBC: Motion by Marie Cornelius to accept the petition processing notice and the 2023 petition status report, seconded by David P. Jordan. Motion carried.

Next Steps:

- Accept the statement of effect for Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting and forward to the Oneida Business Committee.



Statement of Effect

Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting

Summary

This petition requests the General Tribal Council to consider The Petition requests that the General Tribal Council essentially consider voiding any and all actions approved by the General Tribal Council during the first and only virtual General Tribal Council meeting held on November 15, 2022. This Petition also requests that reports be generated to provide information regarding the November 15, 2022, General Tribal Council meeting, such as verification of who attended the meeting, voting participation, and the expenses related with holding the meeting.

Submitted by: Clorissa N. Leeman, Senior Staff Attorney, Legislative Reference Office
Date: May 9, 2023

Analysis by the Legislative Reference Office

On March 2, 2023, the Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting (“the Petition”) was submitted to the Government Administrative Office by Linda Dallas and then verified by the Oneida Trust Enrollment Department on March 7, 2023. On March 22, 2023, 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 April 26, 2023, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. The Legislative Operating Committee added the Petition to its Active Files List on April 7, 2023, for a statement of effect to be developed by the Legislative Reference Office.

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

- *To VOID any and all agenda items and/or other matter allegedly presented and allegedly approved by the GTC during the first and only virtual GTC Meeting held on November 15, 2022; and*
- *To direct a detailed itemized report showing legitimate verification of the alleged GTC meeting attendees at and remained in full attendance throughout the entire virtual GTC meeting held on November 15, 2022, with no separation or interruption of virtual attendance; and*

- *To direct a detailed itemized report showing legitimate verification of the alleged participation of the GTC in any/all voting at the virtual GTC Meeting held on November 15, 2022; and*
- *To direct a detailed itemized report showing any and all expenses associated with the virtual GTC Meeting held on November 15, 2022; and*
- *To direct the Oneida Business Committee to bring all of the agenda items that were on the November 15, 2022, GTC Meeting agenda back to GTC, in a separate In-Person meeting only, for presentation, review, discussion, approval/denial/modification by the GTC; and*
- *To direct a moratorium on any and all items that include, but are not limited to, the planning, development, expenditure of any funds of the Oneida Nation of Wisconsin or otherwise, toward anything allegedly presented and allegedly approved by the GTC during the first and only virtual GTC Meeting allegedly held on November 15, 2022; and*
- *GTC reserves the right to review, discuss, and take any other action deemed appropriate by the General Tribal Council during the GTC Meeting regarding the above matters.*

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

November 15, 2022 Virtual Semi-Annual General Tribal Council Meeting

The General Tribal Council virtually met Tuesday, November 15, 2022, at a duly called Semi-Annual General Tribal Council meeting with one thousand and seven hundred and five (1,705) registered members of the Nation in attendance. The virtual environment called “InEvent” was utilized for this meeting.

A virtual General Tribal Council meeting was scheduled in accordance with resolution BC-07-27-22-P, *Scheduling a Virtual General Tribal Council Meeting*, which provided that the Oneida Business Committee, in light of the COVID-19 pandemic¹, the responsibility to cancel meetings where it is dangerous to the health of members in accordance with the July 2017 directive, the requirement to hold meetings on the Reservation in accordance with the November 2012 directive, hereby approved an exception to the on-Reservation requirement to schedule a virtual General

¹ In accordance with the Emergency Management law, on March 12, 2020, Chairman Tehassi Hill signed a Declaration of Public Health State of Emergency regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1]. The Public Health State of Emergency was continuously extended until May 11, 2023, through adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, and BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, BC-01-12-22-B, BC-03-23-22-A, BC-05-11-22-E, BC-07-13-22-F, BC-09-14-22-C, BC-10-26-22-H, BC-01-11-23-B, BC-03-08-23-A.

Tribal Council meeting. Resolution BC-07-27-22-P then directed the Secretary is directed to bring back dates to hold a virtual General Tribal Council meeting for Oneida Business Committee approval at the August 10, 2022, Oneida Business Committee regular meeting.

On the agenda at the November 15, 2022 General Tribal Council meeting were the following items:

- Reports:
 - 2022 semi-annual Treasurer’s report;
 - 2022 annual Land Acquisition report;
 - 2022 semi-annual report;
- Unfinished Business:
 - Remaining items from the January 20, 2020, annual General Tribal Council meeting agenda;
 - Oneida Business Committee proposal regarding Oneida Land Claims Commission;
- New Business:
 - Sustain Oneida;
 - Virtual General Tribal Council Meetings; and
 - Oneida Nation Food Sovereignty Strategic Plan.

After the agenda was adopted by the General Tribal Council², Oneida Business Committee Chairman Tehassi Hill adjourned the meeting at 5:53 p.m. due to technical difficulties not allowing the General Tribal Council to participate at its fullest.

For those members who signed in and participated in the November 15, 2022, General Tribal Council meeting, a stipend was provided in accordance with the Oneida General Tribal Council Meeting Stipend Payment Policy.

On November 20, 2022, the Oneida Business Committee adopted resolution BC-11-30-22-C, *Acceptance as Information All Items from the November 15, 2022 Re-Convened Semi-Annual Meeting*, which provided that the Oneida Business Committee, under its responsibilities as set forth in Article III, Section 3 of the Constitution and Bylaws of the Oneida Nation and as set forth in the position descriptions adopted in 1990, accepts as information only all items on the 2022 Semi-Annual meeting agenda adopted at the November 15, 2022, virtual General Tribal Council meeting.

The Petition requests that the General Tribal Council essentially consider voiding any and all actions approved by the General Tribal Council during the first and only virtual General Tribal

² Motion by Mike Debraska to adopt the agenda deleting item VI.A, B, and C from the agenda. Seconded by Jonas Hill. Motion failed by hand count: 381 support; 583 opposed; 203 abstained.

Motion by Jacqueline Gerhard to adopt the agenda as presented. Seconded by Bobbi Webster. Motion carried by hand count: 929 support; 128 opposed; 174 abstained.

Council meeting held on November 15, 2022. The only action taken by the General Tribal Council during the November 15, 2022, meeting was the adoption of the agenda.

If the General Tribal Council had taken action during the November 15, 2022 General Tribal Council meeting that would be voided or undone, the Ten Day Notice Policy requires that any action to overrule a previous passed motion or resolution of the General Tribal Council requires a two-thirds (2/3) majority vote. [*1 O.C. 110.3-1(a)(3)*].

This Petition also requests that reports be generated to provide information regarding the November 15, 2022, General Tribal Council meeting, such as verification of who attended the meeting, voting participation, and the expenses related with holding the meeting. Much of this information, such as how many individuals attended the meeting or the costs associated with the meeting can be found in the draft minutes located in the Members Only portion of the Nation's website.³

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting would have the following legislative effect:

1. The Petition requests that the General Tribal Council essentially consider voiding any and all actions approved by the General Tribal Council during the first and only virtual General Tribal Council meeting held on November 15, 2022. The only action taken by the General Tribal Council during the November 15, 2022, meeting was the adoption of the agenda. If the General Tribal Council had taken action during the November 15, 2022 General Tribal Council meeting that would be voided or undone, the Ten Day Notice Policy requires that any action to overrule a previous passed motions or resolutions of the General Tribal Council shall require a two-thirds (2/3) majority vote.
2. This Petition also requests that reports be generated to provide information regarding the November 15, 2022, General Tribal Council meeting, such as verification of who attended the meeting, voting participation, and the expenses related with holding the meeting. Although there is no legislative impact of requesting that a report be generated and brought back to the General Tribal Council, it is important to note that information, such as how many individuals attended the meeting or the costs associated with the meeting can be found in the draft minutes located in the Members Only portion of the Nation's website.

Requested Action

Accept the statement of effect for the Petition: L. Dallas – Void the November 15, 2022, Virtual Semi-Annual General Tribal Council Meeting.

³ <https://oneida-nsn.gov/members-only/gtc-portal/action-reports-draft-minutes/>

May 2023

May 2023						June 2023							
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6				1	2	3	
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
May 1	2	3 8:30am LOC Prep (Microsoft Teams Meeting; BC_Conf_Room) - 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	4	5
8	9	10	11	12
15	16	17 8:30am LOC Prep (Microsoft Teams Meeting; BC_Conf_Room) - 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting;	18	19
22	23	24	25	26
29	30 9:00am Back Pay Law Amendments (Microsoft Teams Meeting) - Clorissa N. Leeman	31	Jun 1	2