



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Microsoft Teams

July 10, 2023

9:00 a.m.

- I. Call to Order and Approval of the Agenda**
  
- II. Minutes to be Approved**
  1. June 21, 2023 LOC Meeting Minutes (pg. 2)
  
- III. Current Business**
  1. Clean Air Policy Amendments (pg. 4)
  
- IV. New Submissions**
  
- V. Additions**
  
- VI. Administrative Updates**
  
- VII. Executive Session**
  
- VIII. Recess/Adjourn**



## LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Microsoft Teams

June 21, 2023

9:00 a.m.

**Present on Microsoft Teams:** David P. Jordan, Daniel Guzman King, Jennifer Webster

**Excused:** Kirby Metoxen

**Others Present on Microsoft Teams:** Clorissa N. Leeman, Grace Elliott, Keith Doxtator, Rhiannon Metoxen, Michelle Braaten, Eric Boulanger, Michelle Tipple, Terri Schiltz, Debra Powless, Justin Nishimoto, Matt Denny, Todd VandenHeuvel, James Poels, Bridget John, Monica Doxtator, Barbara Webster

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

David P. Jordan called the June 21, 2023, Legislative Operating Committee meeting to order at 9:00 a.m.

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

### II. Minutes to be Approved

#### 1. June 7, 2023 LOC Meeting Minutes

Motion by Jennifer Webster to approve the June 7, 2023, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

### III. Current Business

#### 1. Petition: L. Dallas - Allow the General Tribal Council Full Informational Access to the Oneida Nation's Revenue

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas - Allow the General Tribal Council Full Informational Access to the Oneida Nation's Revenue and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

#### 2. Petition: L. Dallas - Direct the Oneida Business Committee to Plan for and Construct a General Tribal Council Meeting Facility

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Dallas –



Direct the Oneida Business Committee to Plan for and Construct a General Tribal Council Meeting Facility and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

**3. Petition: R. Skenandore - Make the Tribal Minimum Wage \$15.00/hour Mean \$15.00/hour with No Exceptions or Loopholes**

Motion by Jennifer Webster to accept the statement of effect for the Petition: R. Skenandore - Make the Tribal Minimum Wage \$15.00/hour Mean \$15.00/hour with No Exceptions or Loopholes and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

**IV. New Submissions**

**V. Additions**

**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn at 9:12 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee  
July 10, 2023

# Clean Air Policy Amendments

<b>Submission Date:</b> 1/18/23	<b>Public Meeting:</b> N/A
<b>LOC Sponsor:</b> David P. Jordan	<b>Emergency Enacted:</b> N/A

**Summary:** *On January 10, 2023, the LOC received a request from Retail to consider amendments to the Clean Air Policy to create an exemption for smoking cigars and tobacco in pipes within a premise designated by retail as a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which the smoking of only cigars and tobacco in pipes is permitted.*

**1/18/23 LOC:** Motion by Jennifer Webster to add the Clean Air Policy amendments to the Active Files List with David P. Jordan as the sponsor; seconded by Marie Cornelius. Motion carried unanimously.

**1/26/23:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Clorissa N. Leeman, Carolyn Salutz, Grace Elliott, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy.

**2/1/23 LOC:** Motion by Marie Cornelius to approve the draft of the Clean Air policy amendments and direct that a legislative analysis be completed; seconded by Daniel Guzman King Motion carried unanimously.

**2/20/23:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Cornelius, Clorissa N. Leeman, Debra Danforth, Michelle Tipple, Victoria Flowers, Brittany Nicholas, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy all allow the Comprehensive Health Division and the Environmental, Health, Safety, Land, And Agriculture Division the opportunity to provide input on the proposed amendments.

**3/20/23:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Cornelius, Clorissa N. Leeman, Debra Danforth, Michelle Tipple, Victoria Flowers, Brittany Nicholas, James Petitjean, James Snitgen, Debra Powless, Timothy Skenandore, Carl Artman, Kristal Hill. This was a work meeting held on Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Clean Air Policy all allow the stakeholders the opportunity to provide input on the proposed amendments before the LOC makes a policy decision as to what direction to go with the amendments.

**Next Steps:**

- Approve the updated draft and legislative analysis of the Clean Air Policy Amendments.

**Title 4. Environment and Natural Resources – Chapter 411  
CLEAN AIR**

411.1. Purpose and Policy  
411.2. Adoption, Amendment, Repeal

411.3. Definitions  
411.4. Regulation of Smoking

3#

4# **411.1. Purpose and Policy**

5# 411.1-1. *Purpose.* ~~It is the~~The purpose of this law to provide a healthy working and learning  
6# environment within buildings and vehicles owned and operated by the Nation by prohibiting  
7# smoking.

8# 411.1-2. *Policy.* It is the policy of the Nation to commit to promoting health and wellness in all  
9# forms. There is long standing evidence that smoking is harmful to oneself and that second-hand  
:# smoke is harmful to others. In addition, the long term effects of electronic cigarettes on individuals  
;# are unclear. In an effort to provide a healthy environment for children, employees, and visitors,  
32# smoking shall be prohibited as described within this law.

33#

34# **411.2. Adoption, Amendment, Repeal**

35# 411.2-1. This law was adopted by motion of the Oneida Business Committee on May 25, 1994,  
36# and amended by resolutions BC-02-24-10-I, BC-05-28-14-A, and BC-\_\_-\_\_-\_\_-\_\_.#

37# 411.2-2. This law may be amended or repealed by the Oneida Business Committee or General  
38# Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

39# 411.2-3. Should a provision of this law or the application thereof to any person or circumstances  
3:# be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
3;# to have legal force without the invalid portions.

42# 411.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
43# the provisions of this law shall control.

44# 411.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

45#

46# **411.3. Definitions**

47# 411.3-1. This section shall govern the definitions of words and phrases used within this law. All  
48# words not defined herein shall be used in their ordinary and everyday sense.

49# (a) “Building” means a structure that has a roof and more than two (2) substantial walls.

4:# (b) “Electronic cigarette” means a device that enables a person to ingest nicotine, or other  
4;# chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and  
52# other products used to refill the device.

53# ~~(1) Electronic cigarette shall not include any device that is prescribed by a~~  
54# ~~healthcare professional.~~

55# (c) “Indoor” means within the exterior walls of any building.

56# (d) “Main entrance” means the front entrance to any building, or any entrance a majority  
57# of the employees and public use to access the building.

58# (e) “Nation” means the Oneida Nation.

59# (f) “Smoke” or “Smoking” means the inhalation of:

5:# (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or

5;# (2) a vaporized liquid from an electronic cigarette, whether the liquid contains or  
62# does not contain nicotine.

63# (g) “Tobacco product” means any form of tobacco prepared in a manner suitable for  
64# smoking.

65#

Draft 2 (Redline to Draft 1)  
2023 07 10

66# **411.4. Regulation of Smoking**

67# 411.4-1. *Prohibition of Smoking*. No person may smoke:

- 68# (a) in any building owned or operated by the Nation;  
69# (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles  
6 :# for disposing of smoking materials shall be maintained at least thirty (30) feet from the  
6 ;# main entrances of the building; or

72# (1) *Exception*. A person may smoke within thirty (30) feet of the retail outlets or  
73# any gaming establishments. Receptacles for disposing of smoking materials may  
74# be maintained within thirty (30) feet of the entrances of these buildings.

75# (c) in any vehicle owned or operated by the Nation.

76# 411.4-2. *Exemptions*. The following exemptions shall apply to the prohibition of smoking:

77# (a) *Cultural Usage*. The reasonable burning of tobacco, sage, cedar, and/or sweetgrass  
78# shall be exempted for cultural usage. Employees working in the vicinity of this cultural use  
79# shall be notified prior to use.

7 :# (b) *Exempted Locations*. The following locations shall be exempted from the prohibition  
7 ;# of smoking:

82# (1) all gaming areas in any building of the Nation;

83# (A) Smoking and non-smoking employee break rooms shall be provided in  
84# these buildings and shall have separate ventilation.

85# (B) Employees shall not smoke while working in these buildings, other than  
86# in the provided break room.

87# (2) residential buildings that are owned by the Nation, including, but not limited  
88# to, single-family dwellings, two (2) family dwellings, and multiple-family  
89# dwellings; and

8 :# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
8 ;# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

92# 411.4-3. *Posting and Notices*. All buildings of the Nation, except for those exempted by section  
93# 411.4-2(b) of this Law, shall be posted as “Non-Smoking” on entrances. In addition, the hallways,  
94# restroom facilities, and other public areas of these buildings may also be posted as “Non-  
95# Smoking.” Signs shall be large enough that they can be viewed and read thirty (30) feet from the  
96# building.

97# 411.4-4. *Violations*.

98# (a) Any building manager or designated agent of the Nation may file for injunctive relief  
99# with the Nation’s Judiciary against any person who repeatedly or willfully violates this  
9 :# law.

9 ;# (b) An employee of the Nation who violates this law during their work hours may be  
:2# subject to the following disciplinary action in accordance with the Nation’s laws and  
| :3# policies governing employment-:

:4# (1) written warning for a first-time violation;

:5# (2) suspended without pay for a second violation; or

:6# (3) terminated from employment for any violation thereafter.

:7#

:8# *End.*

:9#

: :# Adopted – OBC motion on 05-25-94, Grace period for thirty (30) feet until shelters complete, except for at educational

Draft 2 (Redline to Draft 1)  
2023 07 10

- : ;# facilities where minors are present.
- ; 2# Amended – BC-02-24-10-1
- ; 3# Amended – BC-05-28-14-A
- ; 4# Amended – BC \_ - - - \_

**Title 4. Environment and Natural Resources – Chapter 411**  
**CLEAN AIR POLICY**

411.1. Purpose and Policy

411.3. Definitions

~~411.2. Adoption, Amendment, Conflicts~~

411.4. Regulation of Smoking

~~411.2. Adoption, Amendment, Repeal~~

3#

4# **411.1. Purpose and Policy**

5# 411.1-1. *Purpose.* ~~It is the~~The purpose of this ~~Clean Air Policy~~law to provide a healthy working  
6# and learning environment within buildings and vehicles owned and operated by the ~~Oneida~~  
7# ~~Tribe~~Nation by prohibiting smoking.

8# 411.1-2. *Policy.* ~~The Oneida Tribe~~It is committed~~the policy of the Nation~~to ~~commit to promoting~~  
9# health and wellness in all forms. ~~There is long standing evidence that smoking is harmful to~~  
:# oneself and that second-hand smoke is harmful to others. ~~In addition, the long term effects of~~  
;# electronic cigarettes on individuals are unclear. ~~In an effort to provide a healthy environment for~~  
32# children, employees, and visitors, smoking ~~will~~shall be ~~restricted~~prohibited as described within  
33# this ~~policy~~law.

34#

35# **411.2. Adoption, Amendment, ~~Conflicts~~Repeal**

36# 411.2-1. This ~~Policy~~law was adopted by motion of the Oneida Business Committee on May 25,  
37# 1994, and amended by ~~resolution~~resolutions BC-02-24-10-I~~and~~, BC-05-28-14-A~~,~~ and BC- ~~-~~  
38#  ~~- -~~ .#

39# 411.2-2. This ~~Policy~~law may be amended or repealed by the Oneida Business Committee ~~or~~  
3:# ~~General Tribal Council~~ pursuant to the procedures set out in the Legislative Procedures Act.

3:# 411.2-3. Should a provision of this ~~Policy~~law or the application thereof to any person or  
42# circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~Policy~~law  
43# which are considered to have legal force without the invalid portions.

44# 411.2-4. In the event of a conflict between a provision of this ~~Policy~~law and a provision of another  
45# law, ~~ordinance, policy, regulation, rule, resolution, or motion~~, the provisions of this ~~Policy~~law shall  
46# control. ~~Provided that, nothing in this Policy is intended to repeal or modify any existing law,~~  
47# ~~ordinance, policy, regulation, rule, resolution or motion.~~

48# 411.2-5. This ~~Policy~~law is adopted under authority of the Constitution of the Oneida ~~Tribe of~~  
49# ~~Indians of Wisconsin~~Nation.

4:#

4:# **411.3. Definitions**

52# 411.3-1. This section shall govern the definitions of words and phrases used within this ~~Policy~~law.  
53# law. All words not defined herein shall be used in their ordinary and everyday sense.

54# (a) (a) “Building” means a structure that has a roof and more than two (2) substantial  
55# walls.

56# (b) (b) “Electronic cigarette” means a device that enables a person to ingest nicotine,  
57# or other chemicals or substances, by inhaling a vaporized liquid and shall include the  
58# cartridges and other products used to refill the device. ~~“Electronic cigarette” shall not~~  
59# ~~include any device that is prescribed by a healthcare professional.~~

5:# (c) (c) “Indoor” means within the exterior walls of any building.

5:# (d) (d) “Main entrance” means the front entrance to any building, or any entrance a  
62# majority of the employees and public use to access the building.

63# (e) “Nation” means the Oneida Nation.

64# (f) (f) “Smoke” or “Smoking” means the inhalation of:

65# (1) (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or



Draft 2 (Redline to Current)  
2023 07 10

66# ~~(2)~~ (2) a vaporized liquid from an electronic cigarette, whether the liquid contains  
67# or does not contain nicotine.

68# (f) ~~“Tribe”~~(g) “Tobacco product” means ~~the Oneida Tribe~~any form of ~~Indians of~~  
69# ~~Wisconsin~~tobacco prepared in a manner suitable for smoking.

6 : #

#### 6 ; # 411.4. Regulation of Smoking

72# 411.4-1. ~~Except as provided in 411.4-1(b)(1) and 411.4-2, no~~Prohibition of Smoking. No person  
73# may smoke:

74# (a) in any building owned or operated by the ~~Tribe~~Nation;

75# (b) within thirty (30) feet of any building owned or operated by the ~~Tribe~~Nation.  
76# Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet  
77# from the main entrances of the building; or

78# (1) Exception. A person may smoke within thirty (30) feet of the ~~Oneida One~~  
79# ~~Stop~~retail outlets or any gaming establishments. ~~Receptacles for disposing of~~  
7 : # smoking materials may be maintained within thirty (30) feet of the entrances of  
7 ; # these buildings.

82# (c) in any vehicle owned or operated by the ~~Tribe~~Nation.

83# 411.4-2. Exemptions. The following exemptions shall apply to the prohibition of smoking:

84# (a) ~~There shall be an exemption for specific cultural uses for the~~Cultural Usage. The  
85# reasonable burning of tobacco, sage, cedar, and/or sweetgrass ~~shall be exempted for~~  
86# cultural usage. Employees working in the vicinity of this cultural use shall be notified prior  
87# to use.

88# (b) Specifically Exempted Locations. The following locations shall be exempted from ~~this~~  
89# ~~policy~~are the prohibition of smoking:

8 : # (1) all gaming areas in any ~~Tribal~~building of the Nation;

8 ; # (A) Smoking and non-smoking employee break rooms shall be provided in  
92# these buildings and shall have separate ventilation.

93# (B) Employees shall not smoke while working in these buildings, other than  
94# in the provided break room.

95# (2) residential buildings that are owned by the ~~Tribe~~Nation, including, but not  
96# limited to, single-family dwellings, two-~~(2)~~ family dwellings, and multiple-family  
97# dwellings; and

98# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
99# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

9 : # 411.4-3. Posting and Notices. All ~~Tribal~~buildings of the Nation, except for those ~~listed in~~  
9 ; # exempted by section 411.4-2(b); of this Law, shall be posted as “Non-Smoking” on entrances. In  
: 2# addition, the hallways, restroom facilities, and other public areas of these buildings may also be  
: 3# posted as “Non-Smoking.” Signs shall be large enough that they can be viewed and read thirty  
: 4# (30) feet from the building.

: 5# 411.4-4. Violations.

: 6# (a) Any building manager or designated agent of the ~~Oneida Business Committee~~Nation  
: 7# may file for injunctive relief with the ~~Tribe’s judicial system~~Nation’s Judiciary against any  
: 8# person who repeatedly or willfully violates this policy law.

: 9# (b) An employee of the ~~Tribe~~Nation who violates this policy law during ~~his or her~~their

Draft 2 (Redline to Current)  
2023 07 10

|: :# work hours may be subject to the following disciplinary action in accordance with the  
 |: ;# Nation’s laws and policies governing employment :  
 ;2# (1) ~~reprimanded~~written warning for a first-time violation;  
 ;3# (2) suspended without pay ~~for one (1) week~~ for a second violation; or  
 ;4# (3) terminated from employment for any violation thereafter.  
 ;5#  
 ;6# *End.*  
 ;7#  


---

 |;8# Adopted ~~5- OBC motion on 05-25-94, motion, grace~~Grace period for thirty (30) feet until shelters complete, except  
 ;9# for at educational facilities where minors are present.  
 |: ;# Amended – BC-02-24-10-I  
 |; ;# Amended – BC-05-28-14-A  
 |;22# Amended – BC - - -

**Title 4. Environment and Natural Resources – Chapter 411  
CLEAN AIR**

411.1. Purpose and Policy  
411.2. Adoption, Amendment, Repeal

411.3. Definitions  
411.4. Regulation of Smoking

3#

4# **411.1. Purpose and Policy**

5# 411.1-1. *Purpose.* The purpose of this law to provide a healthy working and learning environment  
6# within buildings and vehicles owned and operated by the Nation by prohibiting smoking.

7# 411.1-2. *Policy.* It is the policy of the Nation to commit to promoting health and wellness in all  
8# forms. There is long standing evidence that smoking is harmful to oneself and that second-hand  
9# smoke is harmful to others. In addition, the long term effects of electronic cigarettes on individuals  
:# are unclear. In an effort to provide a healthy environment for children, employees, and visitors,  
;# smoking shall be prohibited as described within this law.

32#

33# **411.2. Adoption, Amendment, Repeal**

34# 411.2-1. This law was adopted by motion of the Oneida Business Committee on May 25, 1994,  
35# and amended by resolutions BC-02-24-10-I, BC-05-28-14-A, and BC-\_\_-\_\_-\_\_-\_\_.#

36# 411.2-2. This law may be amended or repealed by the Oneida Business Committee or General  
37# Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

38# 411.2-3. Should a provision of this law or the application thereof to any person or circumstances  
39# be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
3:# to have legal force without the invalid portions.

3;# 411.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
42# the provisions of this law shall control.

43# 411.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

44#

45# **411.3. Definitions**

46# 411.3-1. This section shall govern the definitions of words and phrases used within this law. All  
47# words not defined herein shall be used in their ordinary and everyday sense.

48# (a) “Building” means a structure that has a roof and more than two (2) substantial walls.

49# (b) “Electronic cigarette” means a device that enables a person to ingest nicotine, or other  
4:# chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and  
4;# other products used to refill the device.

52# (c) “Indoor” means within the exterior walls of any building.

53# (d) “Main entrance” means the front entrance to any building, or any entrance a majority  
54# of the employees and public use to access the building.

55# (e) “Nation” means the Oneida Nation.

56# (f) “Smoke” or “Smoking” means the inhalation of:

57# (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or

58# (2) a vaporized liquid from an electronic cigarette, whether the liquid contains or  
59# does not contain nicotine.

5:# (g) “Tobacco product” means any form of tobacco prepared in a manner suitable for  
5;# smoking.

62#

63# **411.4. Regulation of Smoking**

64# 411.4-1. *Prohibition of Smoking.* No person may smoke:

65# (a) in any building owned or operated by the Nation;

Draft 2  
2023 07 10

66# (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles  
67# for disposing of smoking materials shall be maintained at least thirty (30) feet from the  
68# main entrances of the building; or

69# (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or  
6 :# any gaming establishments. Receptacles for disposing of smoking materials may  
6 ;# be maintained within thirty (30) feet of the entrances of these buildings.

72# (c) in any vehicle owned or operated by the Nation.

73# 411.4-2. *Exemptions.* The following exemptions shall apply to the prohibition of smoking:

74# (a) *Cultural Usage.* The reasonable burning of tobacco, sage, cedar, and/or sweetgrass  
75# shall be exempted for cultural usage. Employees working in the vicinity of this cultural use  
76# shall be notified prior to use.

77# (b) *Exempted Locations.* The following locations shall be exempted from the prohibition  
78# of smoking:

79# (1) all gaming areas in any building of the Nation;

7 :# (A) Smoking and non-smoking employee break rooms shall be provided in  
7 ;# these buildings and shall have separate ventilation.

82# (B) Employees shall not smoke while working in these buildings, other than  
83# in the provided break room.

84# (2) residential buildings that are owned by the Nation, including, but not limited  
85# to, single-family dwellings, two (2) family dwellings, and multiple-family  
86# dwellings; and

87# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
88# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

89# 411.4-3. *Posting and Notices.* All buildings of the Nation, except for those exempted by section  
8 :# 411.4-2(b) of this Law, shall be posted as “Non-Smoking” on entrances. In addition, the hallways,  
8 ;# restroom facilities, and other public areas of these buildings may also be posted as “Non-  
92# Smoking.” Signs shall be large enough that they can be viewed and read thirty (30) feet from the  
93# building.

94# 411.4-4. *Violations.*

95# (a) Any building manager or designated agent of the Nation may file for injunctive relief  
96# with the Nation’s Judiciary against any person who repeatedly or willfully violates this  
97# law.

98# (b) An employee of the Nation who violates this law during their work hours may be  
99# subject to the following disciplinary action in accordance with the Nation’s laws and  
9 :# policies governing employment:

9 ;# (1) written warning for a first-time violation;

:2# (2) suspended without pay for a second violation; or

:3# (3) terminated from employment for any violation thereafter.

:4#

:5# *End.*

:6#

---

:7# Adopted – OBC motion on 05-25-94, Grace period for thirty (30) feet until shelters complete, except for at educational  
:8# facilities where minors are present.

:9# Amended – BC-02-24-10-I

: :# Amended – BC-05-28-14-A

: ;# Amended – BC \_ \_ \_ \_



## CLEAN AIR POLICY AMENDMENTS LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> <li>▪ Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease. [4 O.C. 411.4-2(b)(3)];</li> <li>▪ Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation. [4 O.C. 411.4-4(b)(2)]; and</li> <li>▪ Make other minor drafting changes.</li> </ul>
Purpose	The purpose of this law is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1].
Affected Entities	Oneida Nation employees and community members.
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.

### SECTION 2. LEGISLATIVE DEVELOPMENT

- 1  
 2 **A. Background.** The Clean Air Policy was originally adopted by the Oneida Business by motion on May  
 3 25, 1994, and then amended through resolutions BC-02-24-10-I, and BC-05-28-14-A. The purpose of  
 4 the Clean Air Policy is to provide a healthy working and learning environment within buildings and  
 5 vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1]. It is the policy  
 6 of the Nation to commit to promoting health and wellness in all forms, by prohibiting smoking. [4 O.C.  
 7 411.1-2].
- 8 **B. Request for Amendments.** On January 10, 2023, the LOC received a request from Retail to consider  
 9 amendments to the Clean Air Policy to create an exemption for the prohibition from smoking in any  
 10 building of the Nation for smoking cigars and tobacco in pipes within a premise designated by retail as  
 11 a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which  
 12 the smoking of only cigars and tobacco in pipes is permitted. The Legislative Operating Committee  
 13 added the Clean Air Policy amendments to its Active Files List on January 18, 2023.

### SECTION 3. CONSULTATION AND OUTREACH

- 14  
 15 **A.** Representatives from the following departments or entities participated in the development of the  
 16 amendments to the Back Pay law and this legislative analysis:  
 17
- 18 ▪ Oneida Law Office;
  - 19 ▪ Gaming;
  - 20 ▪ Retail;
  - 21 ▪ Comprehensive Health Division; and
  - 22 ▪ Environmental, Health, Safety, Land, and Agriculture Division.

- 23 B. The following laws were reviewed in the drafting of this analysis:  
24     ▪ Oneida Personnel Policies and Procedures.  
25

## 26 SECTION 4. PROCESS

- 27 A. The development of the proposed amendments to the Clean Air Policy complies with the process set  
28 forth in the Legislative Procedures Act (LPA).  
29     ▪ On January 18, 2023, the Legislative Operating Committee added the Clean Air Policy  
30 amendments to its Active Files List.  
31     ▪ On February 1, 2023, the Legislative Operating Committee approved the draft of the proposed  
32 amendments to the Clean Air Policy and directed that a legislative analysis be developed.  
33 B. At the time this legislative analysis was developed the following work meetings had been held  
34 regarding the development of the amendments to this Law:  
35     ▪ January 26, 2023: LOC work session;  
36     ▪ February 20, 2023: LOC work session with the Comprehensive Health Division and the  
37 Environmental, Health, Safety, Land, and Agriculture Division; and  
38     ▪ March 20, 2023: LOC work session with the Comprehensive Health Division, Retail, Gaming,  
39 Oneida Law Office, and the Environmental, Health, Safety, Land, and Agriculture Division.  
40

## 41 SECTION 5. CONTENTS OF THE LEGISLATION

- 42 A. *Exemptions to the Prohibition of Smoking.* The proposed amendments to the Clean Air Policy include  
43 a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled  
44 by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and  
45 conditions of the lease. [4 O.C. 411.4-2(b)(3)]. Previously, the Clean Air Policy only included  
46 exemptions to the prohibition of smoking for cultural usage, all gaming areas in any building of the  
47 Nation, and residential buildings that are owned by the Nation. [4 O.C. 411.4-2(a)-(b)(1)-(2)].  
48     ▪ *Effect.* An additional exemption was added to the Clean Air Policy in an effort to provide Retail  
49 with an opportunity to pursue the development of a cigar bar in one of the Oneida One Stop retail  
50 locations.  
51 B. *Violations of the Clean Air Policy.* The proposed amendments to the Clean Air Policy clarify that any  
52 employee of the Nation who violates this law during their work hours may be subject to disciplinary  
53 action in accordance with the Nation’s laws and policies governing employment, which is the Oneida  
54 Personnel Policies and Procedures. [4 O.C. 411.4-4(b)]. The proposed amendments to the Clean Air  
55 Policy then demonstrates that the disciplinary action an employee may be subject to includes a written  
56 warning for a first-time violation; a suspension without pay for a second violation; or termination from  
57 employment for any violation thereafter. [4 O.C. 411.4-4(b)(1)-(3)]. Previously, the Clean Air  
58 Policy provided that a first violation of this law would result in a reprimand, but the Clean Air Policy  
59 was not specific as to what that reprimand would consist of. Additionally, the Clean Air Policy  
60 previously provided that a second violation of this law would result in a suspension for one (1) week.  
61 The proposed amendments to the Clean Air Policy eliminated the one (1) week requirement for  
62 suspensions and instead provide the supervisor with discretion to determine the appropriate length of  
63 the suspension. The Oneida Personnel Policies and Procedures requires that a supervisor consult with  
64 the Executive Director of the Human Resources Department to mutually determine the appropriate  
65 length of the suspension, and that any suspension be limited to a maximum of three (3) weeks. [Oneida  
66 *Personnel Policies and Procedures Section V.D.5.f.1*].

- 67       ▪ *Effect.* This proposed amendments to the Clean Air Policy provide greater clarification as to how  
68 violations of this law are addressed for employees who violate the Clean Air Policy during their  
69 work hours.

70

## 71 **SECTION 6. EXISTING LEGISLATION**

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

- 73       ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and  
74 Procedures is to provide for the Nation’s employee related policies and procedures including  
75 recruitment, selection, compensation and benefits, employee relations, safety and health, program  
76 and enterprise rules and regulations, and record keeping.
- 77       ▪ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses  
78 complaints, disciplinary actions and grievances. Section V.D.2.b of the Oneida Personnel  
79 Policies and Procedures provides that a supervisor is required to initiate disciplinary actions  
80 commensurate with the seriousness of the unsatisfactory performance, and a supervisor must  
81 consider each disciplinary action in progressive order and justify a deviance from that  
82 recommended progression.
- 83       ▪ The proposed amendments to the Clean Air Policy clarify that any employee of the Nation who  
84 violates this law during their work hours may be subject to disciplinary action in accordance  
85 with the Nation’s laws and policies governing employment, which is the Oneida Personnel  
86 Policies and Procedures. [4 O.C. 411.4-4(b)].

87

## 88 **SECTION 7. OTHER CONSIDERATIONS**

89 **A. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all  
90 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
91 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
92 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
93 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
94 completing the fiscal impact statement.

- 95       ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact  
96 statement be completed.

97

# July 2023

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

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Jul 3	4	5	6	7
10 8:30am LOC Prep (Microsoft Teams Meeting) - Clorissa N. Leeman 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting) - LOC	11	12	13 12:15pm PUBLIC MEETING: Oneida Life Insurance Plan Law (Microsoft Teams Meeting) - LOC	14
17	18 8:30am LOC Prep (Microsoft Teams Meeting) - Clorissa N. Santiago 9:00am Legislative Operating Committee Meeting (Microsoft Teams Meeting) - LOC	19	20	21
24	25	26	27	28
31	Aug 1	2	3	4