Chapter 2
ONEIDA ELECTION LAW

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People of the Standing Stone how it is we will appoint them the kind of laws we have

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2.1. Purpose and Policy

2.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly Tribal elections, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

2.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

2.2. Adoption, Amendment, Repeal

2.2-1. This law was adopted by the Oneida General Tribal Council by resolution # GTC 7-06-98-A and amended by resolutions #GTC-01-04-10-A, BC-02-25-15-C, and GTC-01-04-10-A .

2.2-2. This law may be amended by the Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

2.2-3. 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.

2.2-4. 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.

2.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

2.3. Definitions

2.3-1. 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.

2.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

2.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

2.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding Tribal holidays.

2.3-5. "Campaigning" shall mean all efforts designed to influence Tribal members to support or reject a particular Tribal candidate including, without limitation, advertising, rallying, public speaking, or other communications with Tribal members.

2.3-6. "Candidate" shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

2.3-7. “Clerk” shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.
2.3-8. “Close of business” shall mean 4:30 p.m. Monday through Friday.
2.3-9. “Conflict of Interest” shall mean any interest, whether it be personal, financial, political or otherwise, in which a Tribal elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.
2.3-10. “Election” shall mean every primary and election.
2.3-11. “General election” shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.
2.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.
2.3-13. “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
2.3-14. “Lot drawing” shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.
2.3-15. “Nation” means the Oneida Nation.
2.3-16. “Oneida Police Officer” shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.
2.3-17. “Private property” shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.
2.3-18. “Prominent locations” shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.
2.3-19. “Qualified voter” shall mean an enrolled Tribal member who is eighteen (18) years of age or older.
2.3-20. “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating machine.
2.3-21. “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.
2.3-22. “Teller” shall mean the election official in charge of collecting and storing of all ballots.
2.2-23. “Tribal member” shall mean an enrolled member of the Nation.
2.3-24. “Tribal newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to Tribal members which is designated by the Election Board as a source for election related news.

2.4. Election Board

Section A. Establishment, Composition and Election

2.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Oneida Constitution.

2.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms.
2.4-3. *Recusal*. An Election Board member shall recuse himself/herself from participating as an Election Board member in any pre-election, election day, or post-election activities while he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.
2.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.
2.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.
2.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.
2.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities.
2.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.

Section B. Duties of the Election Board
2.4-9. The Election Board shall have the following duties, along with other responsibilities listed throughout this law.

(a) The Election Board shall be in charge of all registration and election procedures; and
(b) Upon completion of an election, the Election Board shall make a final report on the election results as set out in this law.

Section C. Specific Duties of Officers and Election Board Members
2.4-10. Specific duties of the Chairperson and other Election Board members, in addition to being present at all Election Board meetings and assisting the handicapped through the voting process, are as set out herein:

(a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 2.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and the Trust Enrollment Department personnel when their election day duties are complete; and shall post and report election results.
(b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.
(c) Secretary: Shall keep a record of the meetings and make them available to the Tribal Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.
(d) Clerks: Shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between Tribal members and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

2.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board=s bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the budgeting process of the Nation.

2.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

2.5. Candidate Eligibility

Section A. Requirements

2.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

2.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

(a) be a Tribal member, as verified by membership rolls of the Nation.

(b) be a qualified voter on the day of the election.

(c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:

(1) a valid Wisconsin driver's license;

(2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;

(3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

2.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

2.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the Tribal Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the caucus. No mailed, internal Tribal mail delivery, faxed or other delivery method shall be accepted.

2.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

Section B. Eligibility Review

2.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

2.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

(a) Position for which they were considered

(b) Qualification of the position and citation of the source. (Copies of source may be attached.)

(c) A brief summary explaining why the applicant was found to be ineligible.

(d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Tribal mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

2.5-8. Contributions:

(a) Solicitation of Contributions by Candidates.

(1) Candidates shall only accept contributions from individuals who are Tribal members or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.

(2) Candidates shall not solicit or accept contributions in any Tribal office or business/facility.

(b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

2.5-9. Campaign Signs and Campaigning:

(a) Placement of campaign signs:

(1) Campaign signs shall not be posted or erected on any Tribal property except for private property with the owner/tenant's permission.

(2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.

(3) No campaign sign shall project beyond the property line into the public right of way.

(b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

(c) Employees of the Nation shall not engage in campaigning for Tribal offices during work hours. Tribal employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign

signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

2.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

2.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

2.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

2.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

2.5-14. *Candidate Withdrawal After Winning an Election.*

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

2.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

2.6-2. The procedures for the caucus shall be as follows:

(a) Candidates shall be nominated from the floor.

(b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.

(c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or creating documents of a board, committee, or commission.

Section B. Petition

2.6-3. Any eligible Tribal member may petition to be placed on a ballot according to the following procedures:

(a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.

(b) Petitioners shall use an official petition form as designated by this law which may be obtained in the Tribal Secretary-s Office or from the mailing for that caucus.

(c) The petition form shall consist of each endorsee's:

(1) printed name and address;

(2) date of birth;

(3) Oneida Tribal enrollment number; and

(4) signature.

(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.

(e) Petitions shall be presented to the Tribal Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.

(f) The Tribal Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

(g) The Election Board shall have the Trust Enrollment Department verify all signatures contained on the petition.

2.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

2.7. Notice of Polling Places

2.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of Tribal businesses/facilities.

2.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

2.7-3. Except for a Special Election, notice for the election shall be mailed to all Tribal members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

2.7-4. Notice of the election shall be placed in the Tribal newspaper.

2.8. Registration of Voters

Section A. Requirements

2.8-1. *Registration of Voters.* All Tribal members who are eighteen (18) years of age or over are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Tribal Constitution.

Section B. Identification of Voters

2.8-2. All voters must present one of the following picture identifications in order to be able to vote:

(a) Tribal I.D.
(b) Drivers License.
(c) Other I.D. with name and photo.

Section C. Registration Procedures

2.8-3. Voters shall physically register, on the day of the election, at the polls.

2.8-4. Trust Enrollment Department personnel shall be responsible for verifying Tribal enrollment. Conduct of the Trust Enrollment Department personnel is governed by the Election Officials during the voting period.

2.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

(a) name and maiden name (if any);
(b) current address;
(c) date of birth; and
(d) enrollment number.

Section D. Qualification/Verification of Voter Eligibility

2.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Tribal Constitution, Article III Section 2, to vote in tribal elections.

2.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

2.9. Election Process

Section A. Polling Places and Times

2.9-1. In accordance with Article III, Section 4 of the Tribal Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 2.12-6.

2.9-2. Elections shall be held in an Oneida Tribal facility(s) as determined by the Election Board.

2.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after

four (4) Tribal members verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

2.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

2.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

2.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

2.9-7. No one causing a disturbance shall be allowed in the voting area.

2.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

Section B. Ballot Box

2.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

Section C. Spoiled Ballots

2.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

2.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

2.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

Section D. Rejected Ballots

2.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 2.9-10 through 2.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated ‘void,’ and placed in a sealed container marked “Void Ballots.”

2.10. Tabulating and Securing Ballots

Section A. Machine Counted Ballots

2.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

2.10-2. At least six (6) Election Board members shall sign the election totals, which shall include the tape signed by the Tribal members before the polls were opened per section 2.9-3(a).

Section B. Manually Counted Ballots

2.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.
2.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.
2.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.
2.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

Section C. Securing Ballots
2.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

2.11. Election Outcome and Ties
Section A. Election Results Announcement
2.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

> *"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"*

2.11-2. The Election Board shall post, in the prominent locations, and publish in the Tribal newspaper, the tentative results of an election.

Section B. Tie
2.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.
2.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

Section C. Recount Procedures

2.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the Tribal Secretary-s Office, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Tribal Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

2.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

2.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

2.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

2.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

2.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

2.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is

filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body-s decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

2.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Tribal Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

2.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

2.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

2.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

2.12. Elections

Section A. Primary Elections; Business Committee

2.12-1. When a primary is required under 2.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

2.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

2.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

2.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 2.5-11 and 2.5-12 shall be followed, including the requirement to print a notice in the Tribal newspaper if time lines allow.

Section B. Special Elections

2.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

2.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

2.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Tribal newspaper not less than ten (10) calendar days prior to the Special Election.

2.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

2.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions are to be presented to the Tribal Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.

Section D. Initiation of Special Elections

2.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

2.12-11. Special Election may be requested by a Tribal member to the Business Committee or General Tribal Council.

2.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

End.

Adopted - June 19, 1993
Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)
Presented for Adoption of 1997 Revisions - GTC-7-6-98-A
Amended- October 11, 2008 (General Tribal Council Meeting)
Amended-GTC-01-04-10-A
Amended – BC-02-25-15-C
Emergency Amended-BC-06-28-15-A (expired)
Emergency Amended – BC-04-27-16-B