

ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE
WWW.ONEIDA-NSN.GOV/GOVERNMENT

Thursday, November 8, 2018, 12:15pm

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

AMENDMENTS TO ELECTION LAW

The purpose of this law is govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations.



Some of the proposed amendments will:

1. Clarify the process for voters who require assistance [1 O.C. 102.16-3];
2. Require ballots from each polling location be kept separate [1 O.C. 102.16-8];
3. Shorten the voter registration form [1 O.C. 102.15-1];
4. Provide a more detailed procedure for handling spoiled ballots [1 O.C. 102.16-9];
5. Require an individual to present a photo ID to be allowed to vote during the election [1 O.C. 102.15-2];
6. Provide that tentative election results be posted within 24 hours of a recount [1 O.C. 102.18-9];
7. Update the timeframe for conducting recounts, and clarify how recounts are conducted [1 O.C. 102.18];
8. Clarify that only the first application submitted for multiple Oneida Business Committee or Judiciary positions will be accepted [1 O.C. 102.9-5];
9. Transfer hearing authority from the Election Board to the Judiciary [1 O.C. 102.9-8];
10. Reduce the number of Election Board members required to be at each polling site [1 O.C. 102.16-11(a)];
11. Remove term limits from the Election Board [1 O.C. 102.4];
12. Clarify the process for submitting referendum questions [1 O.C. 102.7];
13. Update the caucus process [1 O.C. 102.13-1, 102.13-2];
14. Clarify and update language throughout the Law.

PUBLIC COMMENTS PERIOD CLOSSES FRIDAY, NOVEMBER 16, 2018

During the Public Comment Period, all interested persons may submit written comments. 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.



-PUBLIC MEETING PACKETS ARE AVAILABLE AT-

www.oneida-nsn.gov/Register/Public Meetings or contact Oneida Nation Legislative Reference Office located
in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidanation.org Phone: 920-869-4376



AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: GTC	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To update the Nation's election process to require separation of ballots between each polling place, to require the Election Board to ensure voting equipment and ballots are secured and locked, to revise the recount process, to require election results and notices to be posted on the Nation's website, to shorten the voter registration process on election day, to add more safeguards to spoiled ballot process, to require a public test of voting machines, to eliminate provisional voting for voters deemed ineligible, to clarify the process for candidate eligibility, to transfer the Election Board's hearing authority to the Judiciary, to remove term limits for Election Board members, and to reduce the number of Election Board members required at each polling site, among other changes.		
Purpose	The purpose of the Election Law is to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations <i>[see Election Law, 1 O.C. 102.1-1]</i> .		
Affected Entities	All qualified voters of the Oneida Nation, all elected officials of the Nation, all candidates for elected office, Election Board, Trust Enrollment Department, Oneida Police Department, Oneida Records Management Department, Zoning Department, the Nation's Secretary, and the Business Committee Support Office		
Affected Legislation	Election Law, Zoning and Shoreland Protection Law, Open Records and Open Meetings Law, Comprehensive Policy Governing Boards, Committees and Commissions, Garnishment Law, Per Capita Law.		
Enforcement/Due Process	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 <i>[see 102.19-1]</i> . Candidates deemed ineligible for the ballot by Election Board may appeal to the Judiciary <i>[see 102.9-8]</i> . Election Board members who violate the Election Law may be subject to removal in accordance with the Removal Law, termination of appointment if appointed to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation <i>[see 102.4-12]</i> . A member who is removed from the Election Board shall be ineligible to serve on the Election Board for three (3) years from the time he or she is removed from the Election Board <i>[see 102.4-12(a)(1)]</i> .		
Public Meeting	A public meeting has not yet been held.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Election Law was adopted by General Tribal Council (GTC) in 1993 in accordance with Article III, Section 5 of the Constitution. The Election law governs the procedures for the conduct of orderly elections of the Nation. The Election Law was most recently amended by GTC on April 23, 2017 to incorporate Constitutional Amendments into the law, including lowering the age of qualified voters from twenty-one (21) to eighteen (18).
- B. On November 12, 2017, GTC passed a motion to "accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the General Tribal Council during calendar year

2018.” The meeting materials and discussion from this meeting included concerns regarding Election Board, recount process, recusal process and security of ballots and voting machines. In addition to the discussion from this meeting, other potential revisions to the law have been identified by the Election Board, Trust Enrollment Department, and a review of relevant Judiciary decisions.

- C. As a result of this review, the following revisions to this law have been proposed by the Legislative Operating Committee (LOC): update the Nation’s election process to require separation of ballots between each polling place, require the Election Board to ensure voting equipment and ballots are secured and locked, revise the recount process, require election results and notices to be posted on the Nation’s website, shorten the voter registration process on election day, add more safeguards to spoiled ballot process, require a public test of voting machines, eliminate provisional voting for voters deemed ineligible, clarify the process for candidate eligibility, transfer the Election Board’s hearing authority to the Judiciary, remove term limits for Election Board members, and reduce the number of Election Board members required at each polling site, among other changes.

SECTION 3. CONSULTATION AND OUTREACH

- A. The Legislative Operating Committee (LOC) held a work meeting with the Election Board on January 25, 2018 to discuss the board’s ideas for potential amendments. In addition, the LOC reviewed suggested amendments submitted by the Trust Enrollment Department.
- B. The following documents were reviewed in the drafting of this analysis: The Nation’s Constitution, the Election Board’s bylaws and standard operating procedures, Election Board Final Election Reports, relevant Oneida Judiciary decisions, and the November 12, 2017 GTC Meeting minutes and materials.
- C. The following laws were reviewed in the drafting of this analysis: Zoning and Shoreland Protection Law, Open Records and Open Meetings Law, and Comprehensive Policy Governing Boards, Committees and Commissions. In addition, the following Election Laws from other tribes were reviewed: Ho Chunk Election Code, Menominee Nation Election Code, Forest County Potawatomi Election Code, and Stockbridge Munsee Election Ordinance.

SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was added to the Active Files List on December 6, 2017.
- C. At the time this legislative analysis was developed, the following work meetings were held/scheduled regarding the development of this law and legislative analysis:
- January 25, 2018: Work Meeting with Election Board
 - March 16, 2018: LOC Work Meeting
 - March 19, 2018: LOC Work Meeting
 - March 23, 2018: LOC Work Meeting
 - March 29, 2018: LOC Work Meeting
 - April 2, 2018: LOC Work Meeting
 - April 19, 2018: LOC Work Meeting
 - May 2, 2018: LOC Work Meeting
 - June 20, 2018: LOC Work Meeting
 - July 12, 2018: LOC Work Meeting
 - August 6, 2018: LOC Work Meeting
 - August 28, 2018: LOC Work Meeting

SECTION 5. CONTENTS OF THE LEGISLATION

- A. *Election Board.* This section describes the composition and duties of the Election Board. The Election Board consists of nine (9) members elected by General Tribal Council (GTC). The Election

Board is responsible for conducting the elections of the Oneida Nation. The following revisions have been made to the Election Board:

- **Term Limits.** This law eliminates term limits for members of the Election Board. Election Board members are elected by GTC. Currently, Election Board members are limited to two consecutive three-year terms. After serving two terms, Board members must sit out a term before they can run again [see *Election Law, 1 O.C. 102.4-2*]. Now, Election Board members may run for as many terms as they wish.
- **Comparison to other Oneida Boards, Committees and Commissions.** Most other entities of the Nation do not have term limits. For example, other elected entities such as Land Commission, Land Claims Commission, Gaming Commission and Trust Enrollment Committee do not have term limits. Currently, the only other elected board of the Nation with term limits is Oneida Nation Commission on Aging (ONCOA).
- **Comparison to Election Boards of other tribal nations:** Menominee Nation, Potawatomi Nation, Ho Chunk Nation and Stockbridge Munsee have appointed Election Boards which do not have term limits. However, the appointing body has control over who is appointed and for how long.
- **Advantages and Disadvantages of Term Limits:** Potential advantages of term limits are that they may bring new ideas and fresh perspectives to an elected body and give more individuals an opportunity to participate in public service. Potential disadvantages of term limits are that they deprive voters of the ability to elect the candidate of their choice and that the elected body loses experienced members and institutional knowledge.
- **Recusal.** Election Board members must recuse themselves from any pre-election, election day and post-election activities if he or she is a petitioner, applicant or candidate in any election, or if there is otherwise a conflict of interest [see *102.4-3*].
- **Immediate Family:** A new provision has been added clarifying that Election Board members must recuse themselves if an immediate family member is a petitioner, applicant or candidate. This requirement was previously located in the Election Board's bylaws, but has been added directly into the law to strengthen and clarify this requirement [see *102.4-3(b)*].
- **Definition of Immediate Family Members.** An immediate family member is defined as: an individual's father, mother, grandparent, sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-brother, step-daughter, step-son and any other these relations obtained through legal adoption [see *102.3(n)*].
- **Recusal for Judiciary.** Recusal provisions for members of the Nation's Judiciary are located in the Oneida Tribal Judiciary Canons of Judicial Conduct. The canons state that a judge shall withdraw from any matter where the judge has or could be perceived to have a conflict of interest. The canons go on to state that this includes personal, professional, or fiduciary relationships between the Judge or an immediate family member of the Judge [see *Oneida Tribal Judiciary Canons of Judicial Conduct 8 O.C. 802, Section 2.2*].
- **Securing Ballots and Voting Equipment.** A new provision has been added that requires the Election Board to ensure that election polling equipment and ballots are maintained in a locked and secured area when they are not being used for an Election. This is added to clarify that it is Election Board's responsibility to secure the equipment, and that failure to do so is a violation of this law [see *102.4-8(a)*].
- **Standard Operating Procedures.** The Election Board will be required to develop and follow standard operating procedures (SOPs) regarding election activities and responsibilities. Any actions of the Election Board regarding their standard operating procedures must be presented to the Business Committee who shall then adopt or forward to the GTC for

- 110 adoption. For more information regarding the Election Board's current SOPs, see Section 9
111 "Other Considerations" in this analysis. [see 102.4-8(b)].
- 112 ■ **Enforcement and Removal.** A new provision has been added regarding Enforcement, which
113 replaces the previous "Removal" section. Election Board members who violate the Election
114 Law may be subject to:
 - 115 ○ **Removal:** Election Board members who violate the Election Law may be removed in
116 accordance with the Removal Law. A member who is removed from the Election Board
117 will be prohibited from serving on the Election Board for three (3) years.
 - 118 ○ **Termination of Appointed Members.** Election Board members who were appointed to
119 fill vacancies on the board may have their appointments terminated by the Oneida
120 Business Committee in accordance with the Comprehensive Policy Governing Boards,
121 Committees and Commissions.
 - 122 ○ **Sanctions and Penalties.** Election Board members may be subject to sanctions and
123 penalties in accordance with laws of the Nation regarding sanctions and penalties. The
124 Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties
125 Law to increase accountability among elected and appointed officials of the Nation,
126 which will include members of the Election Board. At the time this analysis was drafted,
127 the LOC intends to present a Sanctions and Penalties Law to GTC for consideration once
128 the draft is complete and all legislative requirements are met.
 - 129 **B. General Elections.** This section explains that general elections will be held in accordance with the
130 Constitution [see 102.5].
 - 131 **C. Special Elections.** This section describes the process for special elections. No changes have been
132 made to the special election process.
 - 133 **D. Referendums.** This section describes the process for referendums. Referendum questions may be
134 submitted by qualified voters at a caucus prior to an election. The following revisions have been
135 made to the referendum process to ensure a streamlined process: [see 102.7]
 - 136 ■ **Standard Form.** A provision has been added requiring the Secretary to provide a standard
137 form to submit referendum questions.
 - 138 ■ **Yes or No Questions.** In addition, referendum questions must be written in the form of a
139 "yes or no" question. The intent is to ensure that the questions are written clearly for the
140 voter to answer.
 - 141 **E. Primary Elections for Oneida Business Committee Positions.** This section describes the process
142 for primary elections. No changes have been made to the primary election process [see 102.8].
 - 143 **F. Candidate Eligibility.** This section describes the requirements to be a candidate. The following
144 revisions have been made to this section [see 102.9]:
 - 145 ■ **Applications.** This provision clarifies that all candidates, including those nominated at
146 caucus, must fill out and turn in a completed application packet. Packets will be available in
147 the BC Support Office. In addition, the Election Board's current practice is to provide
148 application packets at the caucus for those that have been nominated. The purpose of
149 requiring the application form is to ensure that candidates meet the eligibility requirements
150 for the office they are seeking [see 102.9-4].
 - 151 ■ **Proof of Minimum Eligibility Requirements.** Applicants will now be required to attach
152 proof that they meet the minimum requirements for the position they are running for. The
153 Election Board must include a list of the required documents on the application so that
154 applicants are aware of what they need to submit. If an applicant does not submit the
155 required documentation, they will be disqualified by the Election Board [see 102.9-4(d)]. If
156 an applicant feels they were unfairly disqualified, they may appeal to the Judiciary.
 - 157 ○ **Example:** An example of required documentation is proof of residency for positions that
158 require members to reside in Brown or Outagamie County or copies of degrees and
159 transcripts for positions that require a degree.

- 160 ■ **Applying for More than One BC or Judiciary Position.** Under the current law, applicants

161 cannot run for more than one Business Committee or Judicial position. For example, an

162 applicant cannot file to run for both BC Chairperson and Councilperson in the same election.

163 However, the current law doesn't state how the Election Board should handle this situation

164 when it occurs. This has led to cases in the Oneida Judiciary, where the Judiciary noted: "the

165 statute is silent as to whether a person has the opportunity to cure any defects and, if so, how

166 much time is afforded to cure such defects. Furthermore, the statute says nothing about

167 disqualifying a candidate from the election entirely who runs for more than one elective

168 office" [see *Metoxen v. Election Board 17-AV-007*]. Therefore, the following new

169 provisions have been added [see 102.9-5]:

 - 170 ○ **Include Restriction in Application Packet & Announce at Caucus.** The restriction on

171 running for multiple BC or Judicial offices will be included in the application packet and

172 read aloud at the caucus, to ensure that all potential candidates are aware before applying

173 [see 102.9-5(a)].
 - 174 ○ **Process If an Applicant Applies For More Than One BC or Judiciary Position:** If an

175 individual applies to run for more than one BC or Judiciary office, the Election Board

176 will only accept the first application that the individual submitted. Any additional

177 applications from that individual for other BC or Judicial offices will be rejected. The BC

178 Support Office will be required to timestamp all applications in the order they are

179 received, and the time stamp will be used to determine which application the individual

180 filed first.
 - 181 ○ Currently, the Election Board reports that they attempt to contact the applicant to

182 determine which office they want to run for. However, the Election Board has not always

183 been able to reach applicants in time for the deadline. The purpose of this new process is

184 to provide clear guidelines to applicants, the Election Board, and the Judiciary. It places

185 responsibility on applicants to follow the law while ensuring that applicants are not

186 disqualified from the ballot entirely.
- 187 ■ **Transfer of Hearing Authority to Judiciary.** This law removes the Election Board's hearing

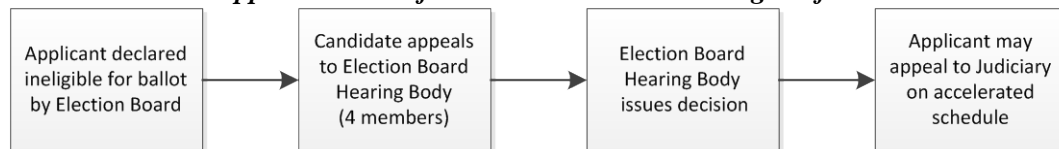
188 body authority and transfers it to the Judiciary. In the current law, when an applicant is

189 found ineligible to be on the ballot by the Election Board, they can appeal that decision to a

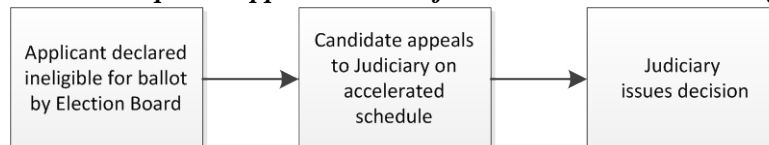
190 hearing body made up of four (4) members of the Election Board. Instead, applicants will

191 now appeal directly to the Judiciary on an accelerated schedule [see 102.9-8].

193 **Chart 1. Current Appeals Process for Candidates Found Ineligible for Ballot:**



196 **Chart 2. Proposed Appeals Process for Candidates Found Ineligible for Ballot:**



- 197 ○ **Transfer of Hearing Body Authority.** GTC established a Judiciary through the adoption of

198 the Judiciary Law by GTC on January 7, 2013 and the approval of Article V to the

199 Nation's Constitution in 2015. Since that time, several boards, committees and

200 commissions have transferred their hearing authority to the Judiciary, including

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Environmental Resource Board (ERB) and Land Commission. The intent of transferring the Election Board's hearing authority is to continue consolidating administrative and judicial hearing responsibilities in the Judiciary to increase consistency in the hearing process.

G. Campaign Fines. This section describes the restrictions on campaigning, campaign signs and campaign finance. The following revisions have been made to this section [see 102.11-1].

- *Process for Fines.* Under the current law, the Election Board may issue fines for violating campaign finance or campaign sign restrictions. This law clarifies that any campaign fines must be paid to the Election Board within (90) ninety days after the fine is issued. The Election Board may seek to collect fines through garnishment and per capita process if not paid in 90 days. Fines will be placed into the Nation's general fund [see 102.10-4 and 102.11-4]
- *Types of Campaign Fines:* In addition to fines for campaign finance violations and campaign sign violations, the Election Board may now impose fines for campaigning within two hundred eighty (280) feet of the voting area during an election.

H. Campaign Signs and Campaigning. This section describes restrictions on campaigning and placement of campaign signs. This includes restrictions on employees campaigning on work time and campaigning within 280 feet of a polling site.

- *Removal of Campaign Signs.* A provision has been revised clarifying that the Zoning Administrator is responsible for removing any campaign signs that are not in compliance with the Election Law or Zoning and Shoreland Protection Law.

I. Candidate Withdrawal from the Election. This section describes the process for a candidate to withdraw from an election prior to the submission of the ballot, prior to the opening of the polls, after the opening of the polls, or after winning an election [see 102.12].

- *Declining Office After Winning Election.* A provision has been added clarifying that if a candidate declines an office after winning an election and after taking the oath of office, it will be treated as a resignation. If a candidate declines an office after winning but before taking the oath of office, then the next highest vote-getter will be declared the winner [see 102.12-6].

J. Shortening Caucus and Primary Election Timeline. Changes have been made to the election timelines to potentially shorten the length of the election season:

- *Caucus Timeline.* In the current law, the caucus must be held at least ninety (90) days prior to the general election. Instead, the caucus will now be held at least seventy-five (75) days prior to the general election [see 102.13-1(a)].
- *Primary Election Timeline.* In the current law, the primary election must be held on a Saturday at least sixty (60) days prior to the general election. Instead, the primary election will now be held on a Saturday at least thirty (30) days prior to the general election [see 102.8-1].
 - Note that these deadlines refer to "at least," or the minimum number of days prior to an election. This means that Election Board may hold the caucus or primary election more than seventy-five (75) or thirty (30) days before the election if more time is needed.
- *Effect.* The effect of these changes will be to potentially shorten the length of the entire election season from a minimum of 90 days to 75 days, the length of time from the caucus to primary election from 30 days to 25 days, and the length of time from the primary election to the general election from 60 to 30 days.

Chart 3. Current Election Timeline:

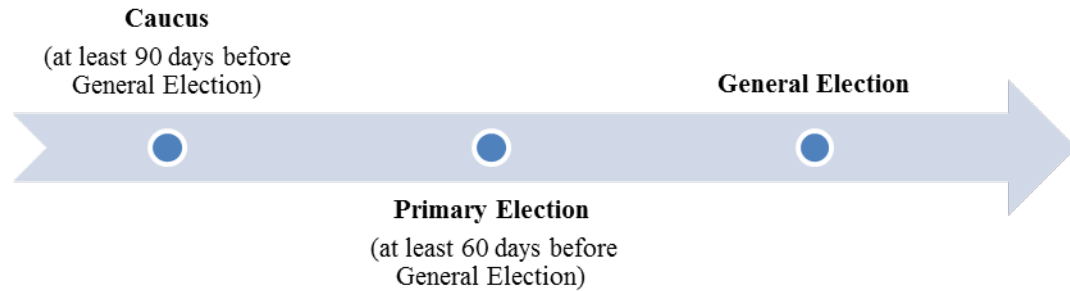
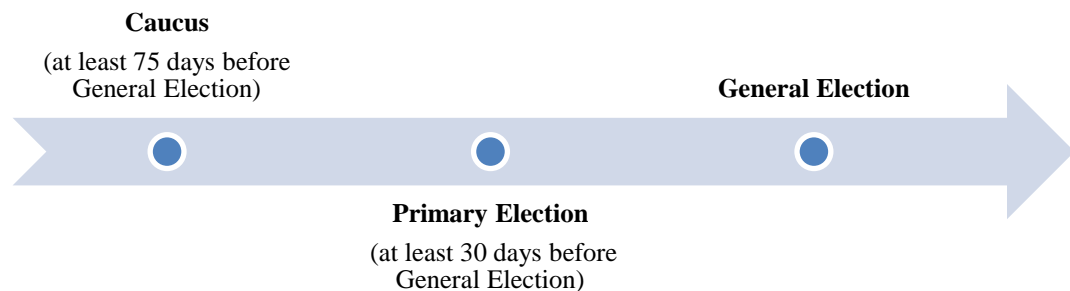


Chart 4. Proposed Election Timeline:



- K. Caucus Procedure.** The section describes the caucus process for selection of candidates.
- *Nominating Candidates by Motion.* More detail has been added to the law to reflect the current caucus process. The law clarifies that each position will be opened and closed for nomination by motion during the caucus: [see 102.13-2]
 - *Example:* A motion will be made to open nominations for the BC Chairperson position. Once all nominations have been made for BC Chairperson, nominations will be closed for that position. Then, a motion will be made to open nominations for BC Vice Chair position, and so on. The intent of this provision is to ensure an orderly caucus.
 - If a candidate is not present at the caucus, or arrives late and misses the position they wanted to be nominated for, they can still petition to be on the ballot instead. A petition to be on the ballot requires only 10 signatures.
 - *Nominating Yourself.* A new provision has been added clarifying that an individual cannot nominate themselves at the caucus. They must be nominated by someone else. [see 102.13-2(b)(1)].
- L. Posting Election Notices & Tentative Results on the Nation's Website.** A provision has been added requiring election notices and tentative election results to be posted on the Nation's website, in addition to being posted to the prominent locations.
- **The prominent locations include:** the polling places, the Norbert Hill Center, the Oneida Community Library, the Oneida Community Health Center, the Southeastern Oneida Tribal Services (SEOTS) building, and all fuel stations operated by the Nation. The prominent locations have been revised to remove Tsunhehkwa Retail store, which is now called Oneida Market and is located within an Oneida One Stop [see 102.3-2(u)].
 - **Require Notices to be posted to Website.** Election notices must be posted in the prominent locations and the Nation's "official media outlets," which includes both the Nation's website and the Nation's newspaper [see 102.14]. Tentative Election results must be posted to the prominent locations and the Nation's website [see 102.17-2]. The purpose of requiring

- 284 results to be posted on the website is to ensure that tribal members and candidates receive
285 election results quickly and conveniently.
- 286 **M. Shortened Voter Registration Form at Polling Site.** When voters sign-in at the polls on election
287 day, they must fill out a voter registration form. This form has been shortened to only require
288 name, date of birth and enrollment number. The requirement that voters write down their maiden
289 name and current address has been removed. The intent of shortening this form is to speed up the
290 line for voters on Election Day. The Election Board reports that name, date of birth and enrollment
291 number are enough information to identify voters [see 102.15-1].
- 292 **N. Elimination of Provisional Ballots for Voters Ruled Ineligible.** Voters who are ruled ineligible to
293 vote at the polls by election officials will no longer have the right to cast a ballot or challenge the
294 decision of the election officials. An example of why a voter would be deemed ineligible to vote is
295 failure to show a photo ID [see 102.15-5].
- 296 ■ **Current Process.** Currently, if a voter is deemed ineligible, they are still allowed to cast a
297 ballot. However, the ballot is placed in a sealed envelope and signed by two Election Board
298 members. The voter is then required to submit an appeal to the Election Board within two (2)
299 business days in order to challenge the Election Board's decision. The Election Board then
300 has five (5) business days to issue a final decision on the voter's eligibility. The Election
301 Board will only count the ballot if the board determines the individual was, in fact, eligible
302 to vote.
- 303 **O. Public Test of Voting Machines.** A new provision has been adding requiring a public test of the
304 voting machines prior to each election. The Election Board will conduct this test no more than ten
305 (10) days prior to election day, and the public test will be noticed in the Nation's newspaper and
306 website. The test will be performed by running a group of pre-audited marked ballots through the
307 machine to ensure that the machine records the correct, predetermined number. The intent of the
308 public test is to increase voter confidence in the voting equipment [see 102.16-1].
- 309 ■ **Public Tests of Voting Machines in Wisconsin.** The public test is modeled after public tests
310 held by Wisconsin municipalities to test their own voting machines under section 5.84(1) of
311 Wisconsin Statutes. Examples of area municipalities that hold public tests of voting
312 machines include the City of De Pere, City of Green Bay, and Village of Ashwaubenon.
- 313 **P. Voter Assistance.** The Election Law has been clarified to state that a voter with a disability or
314 other impairment can request assistance from a member of the Election Board or any other
315 qualified voter of their choosing. A qualified voter is an enrolled member of the Oneida Nation
316 aged 18 or older. For example, a voter can request assistance from a family member or friend, as
317 long as that person is a qualified voter. The purpose of this revision is to clarify that voters may be
318 assisted by any qualified voter of their choosing, whether they are a member of the Election Board
319 or not [see 102.16-4].
- 320 ■ **Qualified Voters Only.** The intent of limiting assistance to qualified voters is to restrict the
321 voting area to qualified voters only, consistent with 102.16-8 of this law, which states that
322 this restriction is in the interest of maintaining security of the ballots and the voting process
- 323 **Q. Separation of Milwaukee and Oneida Ballots.** A provision has been added to the law requiring
324 ballots from each polling site to be kept separate. There are currently two polling sites, one in
325 Oneida and one in Milwaukee. During the 2017 general election, the ballots from the manual
326 count in Milwaukee were combined with the machine count in Oneida. During recounts, it was no
327 longer possible to determine if a ballot came from the Milwaukee or Oneida count. By keeping the
328 ballots separate throughout the election process, it will be easier to determine if there were
329 irregularities at one of the polling sites [see 102.16-9(a)].
- 330 **R. Spoiled Ballots Procedure.** The process for spoiled ballots has been revised. Spoiled ballots will
331 now be placed in a locked, sealed container marked "spoiled ballots." Previously, spoiled ballots
332 were placed in a marked envelope. In addition, the voter will now be required to witness their

spoiled ballot being placed into the container. The purpose of these provisions is to increase voter confidence and to ensure that spoiled ballots are handled properly [see 102.16-10].

S. **Reducing Number of Election Board Members Required at the Polls.** The minimum number of Election Board members required to be present at each polling site on Election day to sign the election totals has been reduced from six (6) members to four (4) members. With the new voting machines, the Election Board reports that they are able to open and close the polls more efficiently, requiring less members to be present. The Election Board also reports that lowering the number of Board members required at each polling place may reduce the need for alternates. The Election Board suggests this may produce a cost savings [see 102.16-12].

T. **Recount Process.** Several revisions have been made to the recount process:

- **Extension of Deadline for Recount Requests.** A provision has been added regarding deadlines for a candidate to request a recount. Currently, candidates have five (5) business days after an election to request a recount. If a recount reverses the result of an election, the candidate who lost as a result of the recount will now have one (1) additional business day to request their own recount. This ensures that a candidate impacted by a recount will still have the opportunity to request their own recount [see 102.18-2(a)].
- **Require Election Board to Complete Recounts within Two (2) Business Days.** Upon receiving a recount request from the Nation's Secretary, the Election Board will now have two (2) business days to complete a recount instead of five (5) days. The purpose of shortening the deadline is to get recount results out sooner, especially if the recount changes the result of the election and the losing candidate wishes to request their own recount [see 102.18-4].
- **Recounts Conducted By Hand and by Machine.** Currently, there is a discrepancy in the Election Law regarding whether the Election Board must conduct recounts by hand or by machine. A change has been made that will now require the Election Board to both hand count and machine count the ballots during a recount. The intent of this change is to increase voter confidence in the process and ensure an accurate count [see 102.18-7].
- **Posting Recount Results.** The Election Board will now be required to post the tentative recount results just like any other election results. The results will be posted in the prominent locations and the Nation's official media outlets within 24 hours of the recount [see 102.18-9]. The intent of this change is to increase transparency of the recount process.

U. **Minor Drafting Changes.** Minor drafting changes have been made, such as changing "judge" to "Election judge" for clarity.

SECTION 6. EFFECT ON EXISTING LEGISLATION

A. **References to Other Laws.** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.

- **Open Records and Open Meetings Law.** Among the duties of the Election Board Secretary is to keep a record of Election Board meetings and make them available to the Nation's Secretary, other Election Board members, and the public as required by the Open Records and Open Meetings Law [see 102.4-9(c)].
- **Comprehensive Policy Governing Boards, Committees and Commissions.** Stipend rates for Election Board members will be set in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions. At the time this analysis was drafted, Election Board members receive \$100 per meeting and \$10 per hour to conduct elections [see 102.4-10].
- **Personnel Policies and Procedures.** Employees of the Nation are not allowed to campaign during work hours. Employees that violate this provision will be subject to disciplinary action in accordance with the Nation's Personnel Policies and Procedures [see 102.11-1(b)].
- **Zoning and Shoreline Law.** The Zoning Administrator shall remove any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreline law [see 102.11-3].

- *Garnishment Law and Per Capita Law.* If a fine issued by the Election Board is not paid by the deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process [see 102.10-4(b)].

SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS

A. *Elimination of Provisional Voting.* This law eliminates an existing right to challenge the decision of election officials if a voter is deemed ineligible to vote on election day. An example of why a person would be deemed ineligible to vote is failure to show a Photo ID.

- *Current Process:* Under current law, if a voter is deemed ineligible to vote on election day, he or she may still fill out a ballot. This ballot is sealed in a numbered envelope and initialed by two Election Board members. The voter then has two (2) business days to mail a written appeal to Election Board. The Election Board will issue a final decision, and will only count the ballot if it is determined that the voter was, in fact, an eligible voter.
- *Proposed Process:* Under this proposed law, if a voter is deemed ineligible to vote on election day, they cannot fill out a ballot and cannot challenge the decision of the Election officials.
- *Provisional Voting in State of Wisconsin.* The Wisconsin Election Commission reports that for state elections, voters can receive a provisional ballot if they are unable or unwilling to provide proof of identification. Provisional ballots are not counted unless the voter provides the required information to the municipal clerk by 4:00 pm of the Friday following the election.
- *Provisional Voting in Other Tribes.* There are examples of other tribes that allow versions of provisional ballots:
 - *Ho Chunk Nation:* If the eligibility of a voter is questioned, the ballot of that voter will be enclosed in an envelope which will be endorsed with the voter's name, the reason for the challenge, and any refutation of the challenge. The Election Board will make the final determination of the eligibility of the voter and will count the votes of those determined eligible to vote [see *Ho Chunk Election Code 13(j)*].
 - *Forest County Potawatomi:* If the eligibility of a voter is questioned by the Election Board, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with his or her name and the reason for the challenge. Challenges shall be made only on the basis of eligibility for voting membership in the Tribe as specified in Article VI, Section 5 of the Constitution of the Forest County Potawatomi Community. The eligibility of all challenged ballots must be determined by a majority of the Election Board before tallying any votes. If the voter is determined to be eligible that envelope will be opened and the ballot placed in the ballot box [see *Forest County Potawatomi Election Code 2.8*].
- *Conclusion:* The LOC should be aware that removing provisional voting eliminates an existing right of voters of the Nation. Whether to allow provisional voting is a policy decision.

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. *Challenging an Election.* 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 [see 102.19-1].
- B. *Challenging Election Board Decision Regarding Candidate Eligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant [see 102.9-8].
- C. *Enforcement and Removal.* Election Board members who violate the Election Law may be subject to removal in accordance with the Removal Law, termination of appointment if appointed to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation [see 102.4-12].
- D. *Final Report.* The Election Board is required to forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed. The Final Report must include the following information: Total number of

persons voting; total votes cast for each candidate by subsection of the ballot; list of any ties and final results of those ties, including the method of resolution; list of candidates elected and position elected to; number of spoiled ballots; and cost of the election, including compensation paid to each Election Board member [see 102.19-2].

SECTION 9. OTHER CONSIDERATIONS

- A. ***New Voting Machines.*** The Election Board reports that they have purchased two (2) new DS200 ballot machines. The Election Board reports that these machines include a regular maintenance schedule. For more information regarding these machines, contact the Election Board.
- B. ***Election Board Standard Operating Procedures (SOPs).*** The Business Committee Support Office has worked with the Election Board to place their Standard Operating Procedures (SOPs) on the Nation's website, so that all members have access to the processes by which an election is conducted. The Election Board's SOPs include detailed instructions regarding ballots, the ballot box, testing voting machines, conducting elections, breaking a tie, conducting recounts and other-election related topics. The SOPs may be viewed by selecting "Oneida Election Board" at www.oneida-nasn.gov/government/boards-committees-and-commissions/elected/
- ***What is an SOP?*** SOPs are the detailed, step-by-step instructions for how an entity implements a law or policy. The intent of an SOP is to ensure consistency in the process. Unlike laws, Election Board SOPs are developed by the Election Board.
- C. ***Sanctions and Penalties Law.*** The Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties Law to increase accountability among elected and appointed officials of the Nation, which will include members of the Election Board. Currently, the only remedy for elected officials is the Removal Law. However, there may be instances of misconduct that do not rise to the level of removal. In these cases, other sanctions such as verbal warnings, written warnings, suspension or fines may be more appropriate. This new law will create a formal complaint process and allow for corrective actions against officials who violate laws, bylaws and SOPs of the Nation. At the time this analysis was drafted, the LOC intends to present a Sanctions and Penalties Law to GTC for consideration once the draft is complete and all legislative requirements are met.
- D. ***Update Resolution Setting Fines for Election Violation.*** This law states that the Business Committee will pass a resolution specifying fines for violations of campaign finance restrictions [102.10-2(a)]. The Business Committee passed a resolution setting fines for campaign sign violations [see BC-01-22-14-A]. However, this resolution did not specifically identify fines for campaign finance violations.
- ***Recommendation:*** The Business Committee should consider amending resolution BC-01-22-14-A to specify fines for campaign finance violations in accordance with this law.
- E. ***New Forms or Procedures:***
- ***Updated Application:*** The Election Board will be required to update the application form to include:
 - A list of required documents that applicants must submit to meet minimum eligibility requirements.
 - A statement that applicants cannot apply to run for more than one Business Committee or Judiciary position.
 - ***Updated Election Board SOPs:*** The Election Board will need to update their SOPs to comply with all amendments to this law.
 - ***New Referendum Form:*** The Nation's Secretary will be required to provide a standard referendum form at the caucus. The Nation's Secretary and BC Support Office should develop this form.
- F. Please refer to the fiscal impact statement for any fiscal impacts.

Title 1. Government and Finances - Chapter 102

ELECTION

Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsia

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

102.1. Purpose and Policy	102.12. Candidate Withdrawal from the Election
102.2. Adoption, Amendment, Repeal	102.13. Selection of Candidates
102.3. Definitions	102.14. Notice of Polling Places
102.4. Election Board	102.15. Registration of Voters
102.5. General Election	102.16. Election Process
102.6. Special Election	102.17. Tabulating and Securing Ballots
102.7. Referendums	102.18. Election Outcomes and Ties
102.8. Primary Elections for Oneida Business Committee Positions	102.19. Challenges
102.9. Candidate Eligibility	102.20. Recount Procedures
102.10. Campaign Financing	102.21. Declaration of Results
102.11. Campaign Signs and Campaigning	102.22. Constitutional Amendments

102.1. Purpose and Policy

102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, 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.

102.1-2. It is the policy of the Nation to have clearly defined duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. This law is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A and GTC- - - -

102.2-2. This law may be amended or repealed by 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.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. 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.

102.3-2(a) "Administrative offices" means the locations where the Oneida Business Committee conducts business.

(b) "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.

102.3-3(c) "Applicant" shall mean a potential candidate who has not yet been officially

approved for acceptance on a ballot.

~~102.3-4.~~(d) “Business day” shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

~~102.3-5.~~(e) “Campaigning” shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

~~102.3-6.~~(f) “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.

~~102.3-7.~~(g) “Clerk” shall mean ~~the election official~~ an Election Board member who identifies proper registration for the purpose of determining voter eligibility.

~~102.3-8.~~(h) “Close of business” shall mean 4:30 p.m. Monday through Friday.

~~102.3-9.~~(i) “Conflict of Interest” shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation 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.

~~102.3-10.~~(j) “Constitution” means the Constitution and By-laws of the Oneida Nation.

(k) “Election” shall mean every primary and election.

~~102.3-11.~~(l) “Election Judge” shall mean an Election Board member who informs and advises the Election Board Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

(m) “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 Oneida Business Committee, and may include ~~contests~~ elections for other elected ~~boards, committees and commissions~~ positions.

~~102.3-12.~~ “Judge” shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

~~102.3-13.~~(n) “Immediate family member” means an individual’s father, mother, grandparent, sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-brother, step-daughter, step-son, and any of the these relations attained through legal adoption.

(o) “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.

~~102.3-14.~~(p) “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.

~~102.3-15.~~(q) “Nation” means the Oneida Nation.

~~102.3-16.~~ “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

~~102.3-17.~~(r) “Official media outlets” means the Oneida Nation’s website and the Kalihwisaks newspaper as identified by the Oneida Business Committee through resolution BC-03-22-17-B.

~~(s)~~ “Oneida Police Officer” shall mean an ~~enrolled member of the Oneida Nation who is a-employed as a police officer on any police force~~with the Oneida Police Department.

~~102.3-18.~~(t) “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.

~~102.3-19.~~(u) “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 South Eastern Oneida Tribal Services (SEOTS) building, and all ~~One Stop locations~~fuel stations operated by the Nation.

~~102.3-20.~~(v) “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18) years of age or older as defined in Article III, Section 2 of the Constitution.

~~102.3-21.~~(w) “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating machine.

~~102.3-22.~~(x) “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

~~102.3-23.~~(y) “Teller” shall mean ~~the election official~~an Election Board member in charge of collecting and storing of all ballots.

102.4. Election Board

~~Section A. 102.4-1. Establishment, Composition and Election~~

~~102.4-1.~~ 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 Nation~~ Constitution.

102.4-2. Composition. 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.~~

102.4-3. Recusal. An Election Board member shall recuse himself ~~or~~ 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.~~when:

(a) he or she is a petitioner, applicant or candidate in any election;

(b) a petitioner, applicant, or candidate in any election is an immediate family~~102.4-4. 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.~~

102.4-5. member of the Election Board member; or

(c) there is otherwise a conflict of interest.

102.4-4. Vacancies. Any vacancy in an unexpired term shall be filled by appointment by the ~~Oneida~~ 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.

102.4-65. The Election Board shall identify members who shall serve as tellers, ~~judges~~Election Judges and clerks in advance of an election.

102.4-~~76~~ *Election Board Alternates.* The Oneida 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.

102.4-~~87~~. The Election Board shall choose a Chairperson from amongst themselves as set out in the ~~By-laws~~bylaws 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 a Secretary.

~~Section B-102.4-8. Duties of the Election Board~~

~~102.4-9.~~ The Election Board shall have the following duties, along with other responsibilities listed throughout this law:

(a) The Election Board shall ensure that the election polling equipment and ballots are maintained in a locked and secured area when not in use for an election;

(b) The Election Board shall develop and adhere to standard operating procedures regarding election activities and responsibilities;

(1) Actions of the Election Board regarding standard operating procedures shall be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

(c) The Election Board shall assist individuals with disabilities through the voting process;

(d) The Election Board shall be in charge of all registration and election procedures; and
(~~b~~e) 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-102.4-9. Specific Duties of Officers and Election Board Members~~

. All Election Board members shall be required to attend all Election Board meetings. Additional specific~~102.4-10. Specific~~ duties of the Chairperson and other Election Board members, ~~in addition to being present at all Election Board meetings and assisting~~ include the ~~handicapped through the voting process, are as set out herein~~following:

(a) ~~Chairperson: Shall.~~ The Chairperson of the Election Board shall conduct the following duties:

(1) preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 102.5-6 in the event of an appeal; shall

(2) oversee the conduct of the election; shall

(3) dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete; and shall post and report election results.

(4) post and report election results.

(b) ~~Vice-Chairperson: Shall.~~ The Vice-Chairperson shall preside over all meetings in the absence of the Chairperson.

(c) ~~Secretary: Shall.~~ The Secretary shall keep a record of the meetings and make them available to the Nation's Secretary, other Election Board members, and the public as required in the ~~Open Records~~Nation's laws and ~~Open Meetings Law~~policies governing open records and open meetings.

(d) ~~Clerks: Shall.~~ The clerks shall implement the requirements of identifying and

170 registering all voters and determining voter eligibility. Clerks shall work in conjunction
171 with the Trust Enrollment Department personnel in the registration process, and assist the
172 Chairperson as directed in conducting the election. ~~Clerks cannot be currently employed~~
173 ~~by the Trust Enrollment Department.~~

174 (1) Clerks shall not be currently employed by the Trust Enrollment Department.

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

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

184 102.4-10.

185 ~~Section D. Compensation Rates~~

186 102.4-11. ~~Election Board~~ Stipend Rates. Election Board members shall receive a stipend in
187 accordance with the Nation's laws, policies, and resolutions governing boards, committees, and
188 commissions. Election members are to be compensated at an hourly rate when conducting
189 elections as provided for in the Election Board's bylaws as approved by the Oneida Business
190 Committee. ~~The Election Board shall have a budget, approved through the Nation's budgeting~~
191 ~~process.~~

192 102.4-12.11. Compensation of other Election Personnel. The Trust Enrollment Department
193 personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of
194 their respective budgets when performing official duties during an election in accordance with
195 this law.

196 102.4-12. Enforcement. A member of the Election Board found to be in violation of this law
197 may be subject to:

198 (a) removal pursuant to any laws and/or policies of the Nation's governing removal, if
199 the Election Board member was elected to his or her position;

200 (1) A member who is removed from the Election Board shall be ineligible to
201 serve on the Election Board for three (3) years from the time he or she is removed
202 from the Election Board.

203 (b) termination of appointment by the Oneida Business Committee pursuant to any laws
204 and/or policies of the Nation governing boards, committees, and commissions, if the
205 Election Board member was appointed to his or her position by the Oneida Business
206 Committee; and/or

207 (c) sanctions and penalties pursuant to any laws and/or policies of the Nation governing
208 sanctions and/or penalties.

209 210 102.5. General Elections

211 102.5-1. In accordance with Article III, Section 5 of the Constitution, general elections shall be
212 held in the month of July on a date set by the General Tribal Council.

213 (a) The General Tribal Council shall set the election date at the January annual meeting,
214 or at the first General Tribal Council meeting held during a given year.

102.6. Special Elections

102.6-1. Initiation of Special Elections. A special election may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

(a) A member of the Nation may make a request for a special election to the Oneida Business Committee or the General Tribal Council.

102.6-2. Matters subject to a special election include, but are not limited to, referendum questions, vacancies, and/or petitions. Matters subject to a special election may be placed on the ballot of a general election.

102.6-3. A special election shall follow the processes and procedures established for all other elections.

102.6-4. The date of a special elections shall be set by the Oneida Business Committee as recommended by the Election Board, or as ordered by the Judiciary in connection with an election challenge.

102.6-5. Notice of Special Elections. Notice of a special election shall be posted by the Election Board in the prominent locations, and placed in the Nation's official media outlets not less than ten (10) calendar days prior to the special election.

102.6-6. Emergency Cancellation of Special Elections. In the event of an emergency, the Election Board may reschedule the special election, provided that no less than twenty-four (24) hour notice of the rescheduled special election date is given to the voters, by posting notices in the prominent locations.

102.7. Referendums

102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a general or special election for the purpose of soliciting an opinion from the voters of that election on any issue directly affecting the Nation or its general membership.

102.7-2. The Nation's Secretary shall develop and make available in the Business Committee Support Office a standard referendum form.

102.7-3. A referendum question shall be written in a manner that solicits a "yes" or "no" response.

102.7-4. The referendum form shall be presented to the Nation's Secretary at the caucus prior to an election. Once received at a caucus, the referendum question shall be placed on the ballot of the next election.

102.7-5. The results of a referendum question in which a majority of the qualified voters who cast votes shall be binding on the Oneida Business Committee to present the issue for action and/or decision at General Tribal Council.

102.8. Primary Elections for Oneida Business Committee Positions

102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position 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.

102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior to the election.

102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary election.

102.8-4. 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 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

Section A. Requirements

~~102.5-1. In~~ 102.9-1. All applicants shall meet the minimum eligibility requirements in order to become a candidate, in addition to any specific requirements and/or exceptions set out in duly adopted ~~by laws~~ bylaws or other documents, ~~all applicants shall meet the minimum requirements set out in this section in order to become a candidate.~~

~~102.59-2.~~ Minimum **Eligibility** Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;
- (b) be a qualified voter on the day of the election; and
- (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.

~~102.59-3.~~ **Conflict of Interest.** No applicant ~~may~~ shall 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.

~~102.59-4. Applications and petitions where the~~ for Candidacy. An applicant interested in being considered as a candidate for a position that was ~~not~~ not nominated ~~during~~ at a caucus or will be petitioning for candidacy shall ~~be filed by presenting the information~~ submit an application for candidacy to the Nation's Secretary, ~~or designated agent, or the Business Committee Support Office.~~

- (a) The application for candidacy shall be submitted in person during normal business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, within five (5) business days after the caucus.

(b) No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

~~102.5-5.~~(c) The Nation's Secretary or the Business Committee Support Office shall timestamp when an application for candidacy is received.

(d) *Proof of Minimum Eligibility Requirements.* At the time of submission, the application for candidacy shall include attached documentation verifying that the applicant meets the minimum eligibility requirements.

(1) The application for candidacy shall include a list of the required documentation for each office.

(2) An application that does not include attached documentation verifying the applicant meets the minimum eligibility requirements at the time of submission shall be disqualified.

102.9-5. An applicant for a position on the Oneida Business Committee or a position within the Judiciary shall only be eligible to apply for one (1) elective office or position per election.

(a) A statement of the ineligibility of an applicant to apply for more than one (1) elective office or position if applying for a position with the Oneida Business Committee or the Judiciary shall be included in the application materials as well as the notice for the caucus, and read verbally at the start of the caucus.

(b) If an applicant provides an application for candidacy or petition for candidacy for more than one position or office if applying for a position on the Oneida Business Committee or the Judiciary, then the application which was filed first shall be accepted while any other applications shall be disqualified.

(1) The Election Board should review the timestamps on the applications to determine which application shall be accepted.

102.9-6. 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 Election Board's ~~designated agent~~ designee.

~~Section B~~102.9-7. *Eligibility Review*

~~102.5-6.~~ 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.

~~102.5-7.~~ 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~~Qualifications 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; ~~and~~

(d) That the applicant has two (2) business days from notification to ~~make an appeal.~~

~~Appeals must be filed at the location designated~~ request a hearing on the ~~notice by hand~~
~~delivery. The location designated~~ ineligibility determination with the Judiciary.

102.9-8. Request for a Hearing on Ineligibility. An applicant found to be ineligible for a
 nominated or petitioned for position shall have two (2) business days to request a hearing with
 the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide
 a request for a hearing on ineligibility within two (2) business days after the request is filed. Any
 appeal to the appellate body of the Judiciary shall be ~~on the Reservation. No mailed, internal~~
~~Nation mail, faxed or other delivery method will be accepted~~ 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.

~~Section C.~~ **102.10. Campaign Financing**

~~102.5-8. Contributions:~~

~~(a) Solicitation of Contributions by Candidates.~~

~~(10-1) Candidates.~~ A candidate shall only accept contributions from individuals who are
 members of the Nation or individuals related by blood or marriage to the candidate. ~~Candidates~~
 may

102.10-2. A candidate shall not accept contributions from any business, whether sole
 proprietorship, partnership, corporation, or other business entity.

~~(2) Candidates~~ 102.10-3. A candidate shall not solicit or accept contributions in any office ~~or,~~
 business ~~and/or~~ facility of the Nation.

~~(b) Fines. Violation~~ 102.10-4. Violations of Campaign Financing Restrictions. A violation of
 the ~~contribution~~ campaign financing restrictions shall result in a fine ~~imposed by the.~~

(a) The Election Board shall impose the fine in an amount specified in a resolution
 adopted by the Oneida Business Committee.

(b) Fines shall be paid to the Election Board within ninety (90) days after the fine is
issued. If the fine is not paid by this deadline, the Election Board may seek to collect the
money owed through the Nation's garnishment and/or per capita attachment process.

(c) Money received from fines shall be deposited into the General Fund.

~~102.5-9~~ **11. Campaign Signs and Campaigning:**

~~(a) 102.11-1. Restrictions on Campaigning.~~ The following restrictions on campaigning apply to
 all candidates:

(a) No campaigning of any type shall be conducted within two hundred eighty (280) feet
of the voting area during an election, excluding private property.

(b) Employees of the Nation shall not engage in campaigning for offices of the Nation
during work hours.

(1) Enforcement. The Nation's employees shall be subject to disciplinary action
 under the Nation's laws and policies governing employment for political
 campaigning during work hours.

102.11-2. Placement of Campaign Signs. Placement of campaign signs shall be pursuant to the
following restrictions:

~~(4a)~~ Campaign signs shall not be posted or erected on any property of the Nation except
 for private property with the owner ~~or~~ tenant's permission.

~~(2b)~~ 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.

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

~~(b) Removal of campaign signs. 102.11-3. 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 offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.~~

~~(d) Enforcement. of Sign Placement.~~ The Zoning Administrator shall ~~cause to be removed~~ remove any campaign signs that are not in compliance with this law, in accordance with the ~~Zoning and Shoreland Protection Law~~ Nation's laws and policies governing zoning. The Zoning Administrator shall notify the Election Board of campaign sign violations.

~~(e) Fines. Violation of the 102.11-4. Violations of Campaign Restrictions. A violation of the restriction on campaigning within two hundred eighty (280) feet of the voting area during an election, or~~ campaign sign restrictions shall result in a fine ~~imposed by the~~.

~~(a) The~~ Election Board shall impose the fine in an amount specified in a resolution adopted by the ~~Oneida~~ Business Committee.

~~Section D. Candidate Withdrawal~~

~~102.5-10 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.~~

~~102.5-11 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.~~

~~102.5-12. 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.~~

~~(b) Fines shall be paid to the Election Board within ninety (90) days after the fine is issued. If the fine is not paid by this deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.~~

~~(c) Money received from fines shall be deposited into the General Fund.~~

~~102.11-5. Removal of Campaign Signs. All campaign signs shall be removed within five (5) business days after an election.~~

~~102.5-13. Candidates~~ **12. Candidate Withdrawal from the Election**

~~102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by any method listed herein~~ **within this section** 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.

~~102.12-2. Withdrawal Prior to Submission of the Ballot. A candidate may withdraw his or her name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted~~

in writing by the candidate to any Election Board member, excluding alternates.

102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate may withdraw his or her name from the election prior to the opening of the polls by submitting in writing a statement indicating they are withdrawing from the election to any Election Board member, excluding alternates.

(a) This written withdrawal statement shall be posted alongside any sample ballot printed prior to the election in the official media outlets of the Nation or any posting at the polling places.

102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening of the polls by submitting a request to be removed from the ballot, in writing, to the Election Board members in charge of the polling place.

(a) The written withdrawal statement shall be posted next to any posted sample ballot.

102.12-5-14. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

(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 Elections~~ special election shall be held.

102.12-6.

2.6. Selection of Candidates

~~Section A~~ *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate declines an office after winning an election and taking an oath of office, the withdrawal shall be treated as a resignation of an official.

102.13. Selection of Candidates

102.13-1. *Setting of a Caucus*

~~102.6-1.~~ The Election Board shall be responsible for calling a caucus before any election is held.

(a) The caucus for the general election shall be held at least ~~ninety (90)~~ seventy-five (75) calendar days prior to the election date. ~~Caucuses~~

(b) A caucus for ~~other elections~~ a special election shall be held at least forty-five (45) calendar days prior to the election date.

(c) In a general election year, caucuses shall be combined so that candidates for the Oneida Business Committee and other elected ~~boards, committees and commissions~~ positions are nominated at the same caucus.

~~102.613-2.~~ 102.13-2. *Caucus Procedures.* The procedures for ~~the~~ a caucus shall be as follows:

~~(a) Candidates~~ (a) Each position shall be opened and closed for nominations by motion during the caucus. A nomination for a position shall only be accepted when a position is open for nominations.

(1) Once nominations are closed for a particular position, an applicant may petition to be on the ballot for that position.

(b) Once a position is opened for nominations a candidate shall be nominated for a position from the floor.

~~(b) Candidates~~ (1) An individual shall not nominate himself or herself for a position during the caucus.

(c) A candidate present at the caucus ~~will~~ shall accept ~~or~~ decline their nomination at the

caucus. ~~Candidates~~ A candidate nominated at the caucus, but not present at the caucus to accept the nomination, shall be required to follow the petition process.

(~~e~~) Nominations shall consist of the following positions:

(1) Oneida Business Committee Chairperson;

(2) Oneida Business Committee Vice-Chairperson;

(3) Oneida Business Committee Treasurer;

(4) Oneida Business Committee Secretary;

(5) Oneida Business Committee Council Member; and

(6) Any other elected positions as required by ~~by laws or creating documents of a board, committee, or commission.~~ bylaws, resolution, or law of the Nation.

~~Section B~~ 102.13-3. Petition

~~102.6-3. for Candidacy.~~ Any eligible member of the Nation may petition to be placed on a ballot ~~according to the following procedures for an election.~~ The procedure for a petition for candidacy shall be as follows:

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

~~(b) Petitioners for candidacy.~~ A petitioner shall use an official petition form ~~as designated by this law and application for candidacy~~ which may be obtained in the Business Committee Support Office ~~of the Nation's Secretary~~ or from the mailing for that caucus.

(b) A petitioners shall obtain at least ten (10) signatures of qualified voters on the petition form. The petition form shall contain the original signatures of the qualified voters. Photocopies of signatures shall not be accepted.

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

(1) printed name and address;

(2) date of birth;

(3) ~~Oneida Nation Enrollment Number~~ enrollment number; and

(4) signature.

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

~~(e)~~ (d) Petitions shall be presented to the Nation's Secretary; or ~~designated agent,~~ the Business Committee Support Office during normal business hours, 8:00 a.m. to 4:30 p.m. 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 Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

~~(g)~~ (f) The Election Board shall ~~have forward the petitions to~~ the Trust Enrollment Department ~~verify~~ for verification of all signatures contained on the petition.

~~102.6-4. 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.~~

~~102.7~~14. Notice of Polling Places

~~102.7~~14-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, 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 the Nation's businesses and/or facilities.

~~102.7~~14-2. ~~Polling~~Notice of the election and 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.

~~102.7~~14-3. Except for a ~~Special Election~~special election, notice for the election shall be mailed to all ~~Nation~~-members of the Nation, 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.

~~102.7-4. Notice of the election shall be placed in the Nation's newspaper.~~

~~102.8~~15. Registration of Voters

~~Section A. Requirements~~

~~102.8~~15-1. ~~Voter~~ Registration of Voters. All enrolled members of the Nation, who are eighteen (18) years of age or over, are qualified. Qualified voters of such shall physically register on the day of the election(s) as defined in Article III, Section at the polls by signing his or her name on an official Voter Registration Form containing the following information:

(a) name;

(b) date of birth; and

(c) enrollment number.

~~102.15-2 of the Oneida Nation Constitution.~~

~~Section B. Identification of Voters~~

~~102.8-2.~~ All qualified voters ~~must~~shall present one of the following picture identifications in order to be able to vote:

(a) Oneida Nation ~~I.D.~~identification card;

(b) ~~Drivers License.~~Driver's license; or

(c) Other ~~I.D. with~~identification card that contains a name and ~~photo~~photograph.

~~Section C. Registration Procedures~~

~~102.8-3. Voters shall physically register, on the day of the election, at the polls.~~

~~102.8-4.~~102.15-3. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. ~~Conduct~~The conduct of Trust Enrollment Department personnel is governed by the Election ~~Officials~~Board members during the voting period.

~~102.8-5. 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~~ 15-4. Verification of Voter Eligibility

~~102.8-6.~~ Should a question or dispute arise as to the eligibility of a voter an individual being qualified to vote, ~~the Judges of the Election Officials appointed by the~~ an Election Board ~~Chairperson~~ member serving as an election judge 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 and verifiable under ~~the Oneida Nation Constitution~~, Article III Section 2; of the Constitution to vote in the Nation's elections.

~~102.8-7~~ 15-5. Any voter denied eligibility shall not be allowed to vote in the election.

102.16. Election Process

~~, provided~~ 102.16-1. Public Test of Ballot Machines. No more than ten (10) days prior to an election, the Election Board shall publically test the ballot machines to ensure that the ballot machine correctly counts the votes cast for all offices and on all measures.

(a) Notice of the public test of the ballot machines shall be ~~placed in an envelope, initialed by two (2) Election Officials, sealed and numbered.~~ The name of the voter posted in the Nation's official media outlets at least ten (10) days prior to the public test.

(b) All ballot machines shall be ~~written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall tested during the public test, no matter what polling location the ballot machines will ultimately 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.~~ used for.

(b) 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 conduct the test by processing a pre-audited group of marked ballots to ensure the machine properly records the predetermined number of votes on the test ballots.

~~102.9~~ 16-2. Election Process

Section A. Polling Places and Times

~~102.9-1.~~ In accordance with Article III, Section 5 of the Oneida Nation 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~~ Location. Elections shall be ~~set in accordance with~~ 102.12-6.

~~102.9-2.~~ Elections shall be held in ~~an Oneida~~ facilities of the Nation ~~facility(s)~~ as determined by the Election Board.

~~102.9~~ 16-3. Polling Time. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified 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 Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot

box is empty and the ballot counting machine printer tape has a zero (0) total count.

~~102.9-4.~~102.16-4. Voter Assistance. A voter who requires assistance to complete the voting process, due to a disability or impairment, may request assistance from a member of the Election Board or from another qualified voter.

102.16-5. 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 are posted.

~~102.9-5~~16-6. The Election Board shall provide a voting area sufficiently isolated for each qualified voter, such that there is an area with at least two (2) sides and a back enclosure.

~~102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.~~

~~102.9-16-7.~~ No one causing a disturbance shall be allowed in the voting area.

~~102.9-16-8.~~ 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~~102.16-9. Ballot Box

~~102.9-9.~~ 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~~(a) Ballots from each polling location shall remain separate.

102.16-10. Spoiled Ballots

~~102.9-10.~~ If a voter spoils his or her ballot, he or she shall be given a new ballot.

~~102.9-11.~~(a) The spoiled ballot shall be marked "~~VOID~~void" and initialed by two (2) Election ~~Officials~~Board members and placed in ~~an envelope~~a locked sealed container marked as "Spoiled Ballots." The voter who spoiled his or her ballot shall witness the spoiled ballot be marked as "void" and placed into the locked sealed container.

~~102.9-12.~~(b) The Spoiled Ballot ~~envelopes~~locked sealed containers 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~~102.16-11. Rejected Ballots

~~102.9-13.~~ Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election ~~Officials~~Board members 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~~section 102.916-10 ~~through 102.9-12~~governing spoiled ballots.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election ~~Officials~~Board members to verify that they are authentic. If the Election ~~Officials~~Board members 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."

~~102.10. Tabulating and Securing Ballots~~

~~Section A~~16-12. Machine Counted Ballots

~~102.10-1.~~ When ballots are counted by machine, ~~at the close of polls the~~Election Judges shall

generate from the ballot counting machine copies of the election totals from the votes cast at the close of the polls.

~~102.10-2.~~(a) At least ~~six~~ ~~(6)~~four (4) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.~~9~~16-3(a).

~~Section B~~102.16-13. *Manually Counted Ballots*

~~102.10-3.~~ When ballots are manually counted, ~~at the close of polls the~~Election Judges shall unlock the ballot box and remove the ballots at the close of the polls.

~~102.10-4.~~(a) 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~~Board members for counting ~~and~~ tallying of ballots.

~~102.10-5.~~(b) The sealed ballots shall be opened at the time of counting by the Election ~~Officials~~Board members and witnessed ~~and~~ monitored by an Oneida Police Officer.

~~102.10-6.~~(c) Ballots must be counted by two ~~(2)~~ different Election ~~Officials~~Board members until two ~~(2)~~ final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

~~Section C~~102.16-14. *Securing Ballots*

~~102.10-7.~~ The Election 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 Election 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~~retention.

~~102.11~~17. **Election Outcome and Ties**

~~Section A~~102.17-1. *Election Results Announcement*

~~102.11-1.~~ 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"

~~102.11~~17-2. The Election Board shall post the tentative results of the election in the prominent locations, and publish in the tentative results on the Nation's ~~newspaper, the tentative results of an election~~website.

~~Section B.~~ *Tie*

~~102.11~~17-3. Tie. 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.

~~102.11-4. For~~ 17-4. Ties of an Oneida Business Committee Position. For Oneida 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.

102.17-5. Ties of Other Elected Positions. For all ~~other~~ elected positions other than the Oneida Business Committee, 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~~ 102.18. Recount Procedures

~~102.11-5.18-1.~~ 18-1. Eligibility for a Recount. 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.

102.18-2. Requesting a Recount. A candidate ~~requests~~ may request a recount by hand delivering a written request to the office of the Nation's Secretary; or ~~noticed designated agent~~ the Business Committee Support Office, within five (5) business days after the election.

(a) Requests shall be limited to one (1) request per candidate.

(b) The five (5) business day deadline for submitting a request for a recount may be extended for one (1) business day after the tentative results of a recount are announced, for a candidate who has not yet utilized his or her one (1) recount request, and who is directly impacted by a recount of the results which lead to a reversal in the results of the election.

102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

~~102.11-6.18-4.~~ The Election Board shall ~~respond by~~ conduct the ~~close of~~ requested recount within two (2) business ~~on the fifth (5th) day~~ days after receiving the request ~~regarding the results of the recount. Provided that, no~~ from the Nation's Secretary.

(a) 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.

~~102.11-7. 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.~~

~~102.11-8. The~~102.18-5. An 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.

~~102.11-9~~18-6. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election ~~Officials.~~Board members. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

~~102.11-10. Recounting of ballots may be performed manually or by computer.~~18-7. All recounts shall be conducted both manually and by machine count with, if possible, the original Election Board members and Oneida Police Officer present. Recounts may, at the discretion of the Election Board members, be of the total election results, or of the challenged sub-section of the election results.

102.18-8. 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 Election Judges.

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

~~Section D~~102.18-9. The Election Board shall post tentative results of the recount within twenty-four (24) hours of the recount being completed. The Election Board shall post the tentative results in the prominent locations, and publish on the Nation's website.

102.19. Challenges and Declaration of Results

~~102.11-11~~19-1. *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~~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~~this law allows for a ~~Special Election~~special election.

~~102.11-12~~19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's 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; and
- (f) Cost of the election, including the compensation paid to each Election Board member.

~~102.11-13~~ **19-3. 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.

~~102.11-14. Candidates~~ **19-4. A candidate** elected to the Oneida Business Committee shall resign from any salaried position effective prior to taking an Oneida Business Committee oath of office

~~102.11-15~~ **19-5.** Except in the event of an emergency, as determined by the Oneida Business Committee, a newly elected officials official shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Oneida 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 Elections special election shall be held.

~~102.11-16~~ **19-6.** 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.

102.12. Elections **20. Constitutional Amendments**

Section A. Primary Elections; Business Committee

~~102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.~~

~~102.12-2. 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.~~

~~102.12-3. 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.~~

~~102.12-4. 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 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.~~

Section B. Special Elections

~~102.12-5. 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.~~

~~102.12-6. 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.~~

~~102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.~~

~~102.12-8. 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~~

~~102.12-9. 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 Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.~~

Section D. Initiation of Special Elections

~~102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.~~

~~102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.~~

~~102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.~~

102.13. Oneida Nation Constitution and By-law Amendments

~~102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters.~~

102.20-2. Constitutional Amendments by the Oneida Business Committee. The requirements for the Oneida Business Committee's initiation of ~~Constitutional~~ amendments to the Constitution are

as provided in the Constitution ~~and as~~ Additional requirements for constitutional amendments by the Oneida Business Committee shall be further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt.

102.20-3. Constitutional Amendments by a Petition of Qualified Voters. Qualified voters may petition to amend the ~~Oneida Nation~~ Constitution ~~and By-laws~~ by submitting a petition to ~~the Office of~~ the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the ~~Office of the~~ Nation's Secretary or the Business Committee Support Office.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the ~~Office of the~~ Nation's Secretary or the Business Committee Support Office. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to notify the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

102.13-220-4. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements ~~contained in 102.13-1~~ of this law on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the next special election.

102.13-320-5. The Election Board shall publish any proposed amendments to the Constitution by publishing a sample 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. Copies of such publications shall be prominently posted in each polling place ~~and~~ at administrative offices of the Nation, and shall also be published in the official ~~Oneida~~ media outlets, ~~which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts~~

business.

102.13-420-6. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.13-520-7. Pursuant to Article VI, Section 3 of the ~~Oneida Nation~~ Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution ~~and By laws~~, and shall abrogate or amend existing provisions of the Constitution ~~and By laws~~ at the end of thirty (30) days after submission of the final election report.

102.13-620-8. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

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-707-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Amended – GTC- - - -

Title 1. Government and Finances - Chapter 102

ELECTION

Onayote'a·ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsila

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

102.1. Purpose and Policy	102.11. Campaign Signs and Campaigning
102.2. Adoption, Amendment, Repeal	102.12. Candidate Withdrawal from the Election
102.3. Definitions	102.13. Selection of Candidates
102.4. Election Board	102.14. Notice of Polling Places
102.5. General Election	102.15. Registration of Voters
102.6. Special Election	102.16. Election Process
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102.8. Primary Elections for Oneida Business Committee Positions	102.18. Recount Procedures
102.9. Candidate Eligibility	102.19. Challenges and Declaration of Results
102.10. Campaign Financing	102.20. Constitutional Amendments

102.1. Purpose and Policy

102.1-1. It is the purpose of this law to govern the procedures for the conduct of orderly elections of the Nation, 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.

102.1-2. It is the policy of the Nation to have clearly defined duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. This law is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, and GTC-__-__-__-__.

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. 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) "Administrative offices" means the locations where the Oneida Business Committee conducts business.

(b) "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.

(c) "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

(d) "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

(e) "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation,

36 advertising, rallying, public speaking, or other communications with members of the
37 Nation.

38 (f) “Candidate” shall mean a petitioner or nominee for an elected position whose name is
39 placed on the ballot by the Election Board after successful application.

40 (g) “Clerk” shall mean an Election Board member who identifies proper registration for
41 the purpose of determining voter eligibility.

42 (h) “Close of business” shall mean 4:30 p.m. Monday through Friday.

43 (i) “Conflict of Interest” shall mean any interest, whether it be personal, financial,
44 political or otherwise, in which a Nation elected official, employee, consultant, appointed
45 or elected, member of any board, committee or commission, or their immediate relatives,
46 friends or associates, or any other person with whom they have contact, that conflicts
47 with any right of the Nation to property, information, or any other right to own and
48 operate its enterprises, free from undisclosed competition or other violation of such rights
49 of the Oneida Nation, or as defined in any law or policy of the Nation.

50 (j) “Constitution” means the Constitution and By-laws of the Oneida Nation.

51 (k) “Election” shall mean every primary and election.

52 (l) “Election Judge” shall mean an Election Board member who informs and advises the
53 Election Board Chairperson of discrepancies, complaints and controversy regarding voter
54 eligibility.

55 (m) “General election” shall mean the election held every three (3) years in July to elect
56 the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members
57 of the Oneida Business Committee, and may include elections for other elected positions.

58 (n) “Immediate family member” means an individual’s father, mother, grandparent,
59 sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law,
60 brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-
61 brother, step-daughter, step-son, and any of the these relations attained through legal
62 adoption.

63 (o) “Judiciary” means the judicial system that was established by Oneida General Tribal
64 Council resolution GTC-01-07-13-B to administer the judicial authorities and
65 responsibilities of the Nation.

66 (p) “Lot drawing” shall mean the equal chance method used to select a candidate as the
67 winner of an elected position, in the case of a tie between two (2) or more candidates.

68 (q) “Nation” means the Oneida Nation.

69 (r) “Official media outlets” means the Oneida Nation’s website and the Kalihwisaks
70 newspaper as identified by the Oneida Business Committee through resolution BC-03-22-
71 17-B.

72 (s) “Oneida Police Officer” shall mean an employed as a police officer with the Oneida
73 Police Department.

74 (t) “Private property” shall mean any lot of land not owned by the Nation, a residential
75 dwelling or a privately owned business within the boundaries of the Reservation.

76 (u) “Prominent locations” shall mean the polling places, main doors of the Norbert Hill
77 Center, main doors of the Oneida Community Library, the Oneida Community Health
78 Center, the South Eastern Oneida Tribal Services (SEOTS) building, and all fuel stations
79 operated by the Nation.

80 (v) “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18)

years of age or older as defined in Article III, Section 2 of the Constitution.

(w) “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating machine.

(x) “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

(y) “Teller” shall mean an Election Board member in charge of collecting and storing of all ballots.

102.4. Election Board

102.4-1. *Establishment.* 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 Constitution.

102.4-2. *Composition.* The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years.

102.4-3. *Recusal.* An Election Board member shall recuse himself or herself from participating as an Election Board member in any pre-election, election day, or post-election activities when:

(a) he or she is a petitioner, applicant or candidate in any election;

(b) a petitioner, applicant, or candidate in any election is an immediate family member of the Election Board member; or

(c) there is otherwise a conflict of interest.

102.4-4. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Oneida 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.

102.4-5. The Election Board shall identify members who shall serve as tellers, Election Judges and clerks in advance of an election.

102.4-6 *Election Board Alternates.* The Oneida 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.

102.4-7. The Election Board shall choose a Chairperson from amongst themselves as set out in the bylaws 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 a Secretary.

102.4-8. *Duties of the Election Board.* The Election Board shall have the following duties, along with other responsibilities listed throughout this law:

(a) The Election Board shall ensure that the election polling equipment and ballots are maintained in a locked and secured area when not in use for an election;

(b) The Election Board shall develop and adhere to standard operating procedures regarding election activities and responsibilities;

(1) Actions of the Election Board regarding standard operating procedures shall be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

(c) The Election Board shall assist individuals with disabilities through the voting process;

(d) The Election Board shall be in charge of all registration and election procedures; and

(e) Upon completion of an election, the Election Board shall make a final report on the election results.

102.4-9. *Specific Duties of Officers and Election Board Members.* All Election Board members shall be required to attend all Election Board meetings. Additional specific duties of the Chairperson and other Election Board members include the following:

(a) *Chairperson.* The Chairperson of the Election Board shall conduct the following duties:

- (1) preside over meetings of the Election Board;
- (2) oversee the conduct of the election;
- (3) dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete; and
- (4) post and report election results.

(b) *Vice-Chairperson.* The Vice-Chairperson shall preside over all meetings in the absence of the Chairperson.

(c) *Secretary.* The Secretary shall keep a record of the meetings and make them available to the Nation's Secretary, other Election Board members, and the public as required in the Nation's laws and policies governing open records and open meetings.

(d) *Clerks.* The 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.

- (1) Clerks shall not be currently employed by the Trust Enrollment Department.

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

(f) *Election Judges.* Election 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 members of the Nation and Election Board members, or any controversy regarding voter eligibility, the election judge(s) shall assist the Chairperson in making a determination.

102.4-10. *Stipend Rates.* Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election 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 Oneida Business Committee.

102.4-11. *Compensation of other Election Personnel.* The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets when performing official duties during an election in accordance with this law.

102.4-12. *Enforcement.* A member of the Election Board found to be in violation of this law may be subject to:

(a) removal pursuant to any laws and/or policies of the Nation's governing removal, if the Election Board member was elected to his or her position;

- (1) A member who is removed from the Election Board shall be ineligible to serve on the Election Board for three (3) years from the time he or she is removed from the Election Board.

(b) termination of appointment by the Oneida Business Committee pursuant to any laws and/or policies of the Nation governing boards, committees, and commissions, if the Election Board member was appointed to his or her position by the Oneida Business

Committee; and/or

(c) sanctions and penalties pursuant to any laws and/or policies of the Nation governing sanctions and/or penalties.

102.5. General Elections

102.5-1. In accordance with Article III, Section 5 of the Constitution, general elections shall be held in the month of July on a date set by the General Tribal Council.

(a) The General Tribal Council shall set the election date at the January annual meeting, or at the first General Tribal Council meeting held during a given year.

102.6. Special Elections

102.6-1. *Initiation of Special Elections.* A special election may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

(a) A member of the Nation may make a request for a special election to the Oneida Business Committee or the General Tribal Council.

102.6-2. Matters subject to a special election include, but are not limited to, referendum questions, vacancies, and/or petitions. Matters subject to a special election may be placed on the ballot of a general election.

102.6-3. A special election shall follow the processes and procedures established for all other elections.

102.6-4. The date of a special elections shall be set by the Oneida Business Committee as recommended by the Election Board, or as ordered by the Judiciary in connection with an election challenge.

102.6-5. *Notice of Special Elections.* Notice of a special election shall be posted by the Election Board in the prominent locations, and placed in the Nation's official media outlets not less than ten (10) calendar days prior to the special election.

102.6-6. *Emergency Cancellation of Special Elections.* In the event of an emergency, the Election Board may reschedule the special election, provided that no less than twenty-four (24) hour notice of the rescheduled special election date is given to the voters, by posting notices in the prominent locations.

102.7. Referendums

102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a general or special election for the purpose of soliciting an opinion from the voters of that election on any issue directly affecting the Nation or its general membership.

102.7-2. The Nation's Secretary shall develop and make available in the Business Committee Support Office a standard referendum form.

102.7-3. A referendum question shall be written in a manner that solicits a "yes" or "no" response.

102.7-4. The referendum form shall be presented to the Nation's Secretary at the caucus prior to an election. Once received at a caucus, the referendum question shall be placed on the ballot of the next election.

102.7-5. The results of a referendum question in which a majority of the qualified voters who cast votes shall be binding on the Oneida Business Committee to present the issue for action and/or decision at General Tribal Council.

102.8. Primary Elections for Oneida Business Committee Positions

102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position 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.

102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior to the election.

102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary election.

102.8-4. 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 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

102.9-1. All applicants shall meet the minimum eligibility requirements in order to become a candidate, in addition to any specific requirements and/or exceptions set out in duly adopted bylaws or other documents.

102.9-2. *Minimum Eligibility Requirements.* In order to be eligible to be a candidate, applicants shall:

(a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;

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

(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.

102.9-3. *Conflict of Interest.* No applicant shall 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.

102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate

for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an application for candidacy to the Nation's Secretary or the Business Committee Support Office.

(a) The application for candidacy shall be submitted in person during normal business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, within five (5) business days after the caucus.

(b) No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

(c) The Nation's Secretary or the Business Committee Support Office shall timestamp when an application for candidacy is received.

(d) *Proof of Minimum Eligibility Requirements.* At the time of submission, the application for candidacy shall include attached documentation verifying that the applicant meets the minimum eligibility requirements.

(1) The application for candidacy shall include a list of the required documentation for each office.

(2) An application that does not include attached documentation verifying the applicant meets the minimum eligibility requirements at the time of submission shall be disqualified.

102.9-5. An applicant for a position on the Oneida Business Committee or a position within the Judiciary shall only be eligible to apply for one (1) elective office or position per election.

(a) A statement of the ineligibility of an applicant to apply for more than one (1) elective office or position if applying for a position with the Oneida Business Committee or the Judiciary shall be included in the application materials as well as the notice for the caucus, and read verbally at the start of the caucus.

(b) If an applicant provides an application for candidacy or petition for candidacy for more than one position or office if applying for a position on the Oneida Business Committee or the Judiciary, then the application which was filed first shall be accepted while any other applications shall be disqualified.

(1) The Election Board should review the timestamps on the applications to determine which application shall be accepted.

102.9-6. 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 Election Board's designee.

102.9-7. *Eligibility Review.* 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) Qualifications 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; and

(d) That the applicant has two (2) business days from notification to request a hearing on the ineligibility determination with the Judiciary.

102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide

a request for a hearing on ineligibility within two (2) business days after the request 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.

102.10. Campaign Financing

102.10-1. A candidate shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate.

102.10-2. A candidate shall not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.

102.10-3. A candidate shall not solicit or accept contributions in any office, business and/or facility of the Nation.

102.10-4. *Violations of Campaign Financing Restrictions.* A violation of the campaign financing restrictions shall result in a fine.

(a) The Election Board shall impose the fine in an amount specified in a resolution adopted by the Oneida Business Committee.

(b) Fines shall be paid to the Election Board within ninety (90) days after the fine is issued. If the fine is not paid by this deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

(c) Money received from fines shall be deposited into the General Fund.

102.11. Campaign Signs and Campaigning

102.11-1. *Restrictions on Campaigning.* The following restrictions on campaigning apply to all candidates:

(a) No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area during an election, excluding private property.

(b) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours.

(1) *Enforcement.* The Nation's employees shall be subject to disciplinary action under the Nation's laws and policies governing employment for political campaigning during work hours.

102.11-2. *Placement of Campaign Signs.* Placement of campaign signs shall be pursuant to the following restrictions:

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

(b) 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.

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

102.11-3. *Enforcement of Sign Placement.* The Zoning Administrator shall remove any campaign signs that are not in compliance with this law, in accordance with the Nation's laws and policies governing zoning. The Zoning Administrator shall notify the Election Board of campaign sign violations.

102.11-4. *Violations of Campaign Restrictions.* A violation of the restriction on campaigning within two hundred eighty (280) feet of the voting area during an election, or campaign sign restrictions shall result in a fine.

(a) The Election Board shall impose the fine in an amount specified in a resolution adopted by the Oneida Business Committee.

(b) Fines shall be paid to the Election Board within ninety (90) days after the fine is issued. If the fine is not paid by this deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

(c) Money received from fines shall be deposited into the General Fund.

102.11-5. *Removal of Campaign Signs.* All campaign signs shall be removed within five (5) business days after an election.

102.12. Candidate Withdrawal from the Election

102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by any method listed within this section 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.

102.12-2. *Withdrawal Prior to Submission of the Ballot.* A candidate may withdraw his or her name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted in writing by the candidate to any Election Board member, excluding alternates.

102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate may withdraw his or her name from the election prior to the opening of the polls by submitting in writing a statement indicating they are withdrawing from the election to any Election Board member, excluding alternates.

(a) This written withdrawal statement shall be posted alongside any sample ballot printed prior to the election in the official media outlets of the Nation or any posting at the polling places.

102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening of the polls by submitting a request to be removed from the ballot, in writing, to the Election Board members in charge of the polling place.

(a) The written withdrawal statement shall be posted next to any posted sample ballot.

102.12-5. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

(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.

102.12-6. *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate declines an office after winning an election and taking an oath of office, the withdrawal shall be treated as a resignation of an official.

102.13. Selection of Candidates

102.13-1. *Setting of a Caucus.* The Election Board shall be responsible for calling a caucus before any election is held.

(a) The caucus for the general election shall be held at least seventy-five (75) calendar days prior to the election date.

(b) A caucus for a special election shall be held at least forty-five (45) calendar days

396 prior to the election date.

397 (c) In a general election year, caucuses shall be combined so that candidates for the
398 Oneida Business Committee and other elected positions are nominated at the same
399 caucus.

400 102.13-2. *Caucus Procedures*. The procedures for a caucus shall be as follows:

401 (a) Each position shall be opened and closed for nominations by motion during the
402 caucus. A nomination for a position shall only be accepted when a position is open for
403 nominations.

404 (1) Once nominations are closed for a particular position, an applicant may
405 petition to be on the ballot for that position.

406 (b) Once a position is opened for nominations a candidate shall be nominated for a
407 position from the floor.

408 (1) An individual shall not nominate himself or herself for a position during the
409 caucus.

410 (c) A candidate present at the caucus shall accept or decline their nomination at the
411 caucus. A candidate nominated at the caucus, but not present at the caucus to accept the
412 nomination, shall be required to follow the petition process.

413 (d) Nominations shall consist of the following positions:

414 (1) Oneida Business Committee Chairperson;

415 (2) Oneida Business Committee Vice-Chairperson;

416 (3) Oneida Business Committee Treasurer;

417 (4) Oneida Business Committee Secretary;

418 (5) Oneida Business Committee Council Member; and

419 (6) Any other elected positions as required by bylaws, resolution, or law of the
420 Nation.

421 102.13-3. *Petition for Candidacy*. Any eligible member of the Nation may petition to be placed
422 on a ballot for an election. The procedure for a petition for candidacy shall be as follows:

423 (a) Each petitioner, not nominated at caucus, shall file a petition for candidacy. A
424 petitioner shall use an official petition form and application for candidacy which may
425 be obtained in the Business Committee Support Office or from the mailing for that
426 caucus.

427 (b) A petitioners shall obtain at least ten (10) signatures of qualified voters on the
428 petition form. The petition form shall contain the original signatures of the qualified
429 voters. Photocopies of signatures shall not be accepted.

430 (c) The petition form shall consist of each qualified voter's:

431 (1) printed name and address;

432 (2) date of birth;

433 (3) enrollment number; and

434 (4) signature.

435 (d) Petitions shall be presented to the Nation's Secretary or the Business Committee
436 Support Office during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through
437 Friday, but no later than prior to close of business five (5) business days after the
438 caucus. The location to drop-off petitions shall be identified in the mailing
439 identifying the caucus date.

440 (e) The Nation's Secretary shall forward all petitions to the Election Board

Chairperson the next business day following the close of petition submissions.

(f) The Election Board shall forward the petitions to the Trust Enrollment Department for verification of all signatures contained on the petition.

102.14. Notice of Polling Places

102.14-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, 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 the Nation's businesses and/or facilities.

102.14-2. Notice of the election and 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.

102.14-3. Except for a special election, notice for the election shall be mailed to all members of the Nation, 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.

102.15. Registration of Voters

102.15-1. *Voter Registration.* Qualified voters shall physically register on the day of the election at the polls by signing his or her name on an official Voter Registration Form containing the following information:

- (a) name;
- (b) date of birth; and
- (c) enrollment number.

102.15-2. *Identification of Voters.* All qualified voters shall present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation identification card;
- (b) Driver's license; or
- (c) Other identification card that contains a name and photograph.

102.15-3. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. The conduct of Trust Enrollment Department personnel is governed by the Election Board members during the voting period.

102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility of an individual being qualified to vote, an Election Board member serving as an election judge 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 and verifiable under Article III Section 2 of the Constitution to vote in the Nation's elections.

102.15-5. Any voter denied eligibility shall not be allowed to vote in the election.

102.16. Election Process

102.16-1. *Public Test of Ballot Machines.* No more than ten (10) days prior to an election, the Election Board shall publically test the ballot machines to ensure that the ballot machine correctly counts the votes cast for all offices and on all measures.

(a) Notice of the public test of the ballot machines shall be posted in the Nation's official media outlets at least ten (10) days prior to the public test.

(b) All ballot machines shall be tested during the public test, no matter what polling location the ballot machines will ultimately be used for.

(b) The Election Board shall conduct the test by processing a pre-audited group of marked ballots to ensure the machine properly records the predetermined number of votes on the test ballots.

102.16-2. *Polling Location.* Elections shall be held in facilities of the Nation as determined by the Election Board.

102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified 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 Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

102.16-4. *Voter Assistance.* A voter who requires assistance to complete the voting process, due to a disability or impairment, may request assistance from a member of the Election Board or from another qualified voter.

102.16-5. 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 are posted.

102.16-6. The Election Board shall provide a voting area sufficiently isolated for each qualified voter, such that there is an area with at least two (2) sides and a back enclosure.

102.16-7. No one causing a disturbance shall be allowed in the voting area.

102.16-8. 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.

102.16-9. *Ballot Box.* 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.

(a) Ballots from each polling location shall remain separate.

102.16-10. *Spoiled Ballots.* If a voter spoils his or her ballot, he or she shall be given a new ballot.

(a) The spoiled ballot shall be marked "void" and initialed by two (2) Election Board members and placed in a locked sealed container marked as "Spoiled Ballots." The voter who spoiled his or her ballot shall witness the spoiled ballot be marked as "void" and placed into the locked sealed container.

(b) The Spoiled Ballot locked sealed containers 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.

102.16-11. *Rejected Ballots.* Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Board members 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 section 102.16-10 governing spoiled ballots.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Board members to verify that they are authentic. If the Election Board members 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.”

102.16-12. *Machine Counted Ballots.* When ballots are counted by machine, the Election Judges shall generate from the ballot counting machine copies of the election totals from the votes cast at the close of the polls.

(a) At least four (4) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.16-3(a).

102.16-13. *Manually Counted Ballots.* When ballots are manually counted, the Election Judges shall unlock the ballot box and remove the ballots at the close of the polls.

(a) 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 Board members for counting and tallying of ballots.

(b) The sealed ballots shall be opened at the time of counting by the Election Board members and witnessed and monitored by an Oneida Police Officer.

(c) Ballots must be counted by two (2) different Election Board members until two (2) final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

102.16-14. *Securing Ballots.* The Election 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 Election 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 retention.

102.17. Election Outcome and Ties

102.17-1. *Election Results Announcement.* 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"

102.17-2. The Election Board shall post the tentative results of the election in the prominent locations, and publish the tentative results on the Nation’s website.

102.17-3. *Tie .* 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.

102.17-4. *Ties of an Oneida Business Committee Position.* For Oneida 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.

102.17-5. *Ties of Other Elected Positions.* For all elected positions other than the Oneida Business Committee, 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.

102.18. Recount Procedures

102.18-1. *Eligibility for a Recount.* 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.

102.18-2. *Requesting a Recount.* A candidate may request a recount by hand delivering a written request to the office of the Nation's Secretary or the Business Committee Support Office, within five (5) business days after the election.

(a) Requests shall be limited to one (1) request per candidate.

(b) The five (5) business day deadline for submitting a request for a recount may be extended for one (1) business day after the tentative results of a recount are announced, for a candidate who has not yet utilized his or her one (1) recount request, and who is directly impacted by a recount of the results which lead to a reversal in the results of the election.

102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

102.18-4. The Election Board shall conduct the requested recount within two (2) business days after receiving the request from the Nation's Secretary.

(a) 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.

102.18-5. An 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.

102.18-6. A recount shall be conducted by a quorum of the Election Board, including at least

three (3) of the original Election Board members. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

102.18-7. All recounts shall be conducted both manually and by machine count with, if possible, the original Election Board members and Oneida Police Officer present. Recounts may, at the discretion of the Election Board members, be of the total election results, or of the challenged sub-section of the election results.

102.18-8. 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 Election Judges.

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

102.18-9. The Election Board shall post tentative results of the recount within twenty-four (24) hours of the recount being completed. The Election Board shall post the tentative results in the prominent locations, and publish on the Nation's website.

102.19. Challenges and Declaration of Results

102.19-1. *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 this law allows for a special election.

102.19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's 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; and

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

102.19-3. *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.

102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried

position effective prior to taking an Oneida Business Committee oath of office

102.19-5. Except in the event of an emergency, as determined by the Oneida Business Committee, a newly elected official shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Oneida 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.

102.19-6. 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.

102.20. Constitutional Amendments

102.20-1. Pursuant to Article VI of the Constitution, amendments to the Constitution may be initiated by the Oneida Business Committee or a petition of qualified voters.

102.20-2. *Constitutional Amendments by the Oneida Business Committee.* The requirements for the Oneida Business Committee's initiation of amendments to the Constitution are as provided in the Constitution. Additional requirements for constitutional amendments by the Oneida Business Committee shall be further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt.

102.20-3. *Constitutional Amendments by a Petition of Qualified Voters.* Qualified voters may petition to amend the Constitution by submitting a petition to the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Nation's Secretary or the Business Committee Support Office.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Nation's Secretary or the Business Committee Support Office. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to notify the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

102.20-4. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements of this law on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the next special election.

102.20-5. The Election Board shall publish any proposed amendments to the Constitution by publishing a sample 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. Copies of such publications shall be prominently posted in each polling place, at administrative offices of the Nation, and shall also be published in the official media outlets.

102.20-6. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.20-7. Pursuant to Article VI, Section 3 of the Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution, and shall abrogate or amend existing provisions of the Constitution at the end of thirty (30) days after submission of the final election report.

102.20-8. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

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-07-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Amended – GTC-__-__-__-__