



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Staff Attorney
DATE: December 5, 2018
RE: Election Law Amendments: Public Meeting Comment Review

On November 8, 2018, a public meeting was held regarding the proposed amendments to the Election law (“the Law”). The public comment period was then held open until November 16, 2018. This memorandum is submitted as a review of the oral and written comments received within the public meeting and public comment period.

On November 16, 2018, the Legislative Operating Committee reviewed and considered every comment. David P. Jordan, Jennifer Webster, Kirby Metoxen, and Daniel Guzman were present for the consideration of these comments.

Comment 1 – Definition of Alternate:

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.

(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.

102.4. Election Board

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.

Election Board (written): Lines 28, 29 vs 107. (b) Alternate definition contradicts line 107; add "until results are certified" to be consistent with definition.

Response

The commenter requests that the definition for “alternate” which states that an alternate will serve on the Election Board during an election and until election results have been certified be made consistent with a later section of the Law which provides that alternates will assist with election day and pre-election activities.

In an effort to eliminate any perceived inconsistencies, the following revision to the Law is recommended based on this comment:

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~~ during an election and until election results have been certified.

LOC Consideration

The Legislative Operating Committee agreed that the recommended revision to section 102.4-6 of the Law should be made to eliminate any perceived inconsistencies regarding the definition of alternates.

Comment 2 – Definition of Prominent Locations:

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.

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

Election Board (written): Lines 76-79. (u) Prominent Locations states polling places. Remove SEOTS because its already a polling site. Remove all fuel stations. Limit it to just NHC, OHC, SEOTS, Fuel station Four Paths and Hwy 54.

Response

The commenter requests that the South Eastern Oneida Tribal Services (SEOTS) building be removed from the definition of “prominent locations” as the definition of prominent locations already includes polling places, and SEOTS is a polling place.

The Law does not specify what locations will serve as polling places of the Nation, but instead states that 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. [1 O.C. 102.14-1]. This allows the Nation the flexibility to change the location of the polling places to meet the needs of the Nation without having to amend the Law.

Although SEOTS currently serves as the polling place in Milwaukee, it does not have to remain the polling place in the future. At a special General Tribal Council meeting held on March 28, 2015, General Tribal Council adopted a motion to require that a Milwaukee polling site be included in all tribal elections. This General Tribal Council directive did not specify that SEOTS has to be the location of a Milwaukee polling site. Therefore, a more appropriate polling site other than SEOTS could be found and utilized in Milwaukee in the future.

SEOTS is included in the definition of prominent locations because the Legislative Operating Committee made the determination that elections should be noticed at SEOTS even if in the future SEOTS is no longer a polling place of the Nation.

Additionally, the commenter requests that the Oneida Community Library and all fuel stations not the Four Paths fuel station or One Stop on Highway 54 be removed from the definition of prominent locations. The Legislative Operating Committee included all the listed locations in the definition of prominent locations in an effort to provide a wide range of locations that elections will be noticed at.

The determination of what locations are included in the definition of prominent locations is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may determine if the definition included in the Law for prominent locations should be amended or remain as currently drafted.

LOC Consideration

The Legislative Operating Committee questioned why the Election Board would want the definition for prominent locations changed and presumed that it was because the Election Board feels the definition is redundant.

Ultimately, the Legislative Operating Committee determined that the definition should remain as currently drafted, with the understanding that even if the definition appears to be redundant, it is so that the Legislative Operating Committee can ensure that prominent locations includes a wide variety of locations in an effort to notice the greatest number of people as possible.

Comment 3 – Prior Reference of Prominent Locations:

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.

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

102.17. Election Outcome and Ties

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.

Bonnie Pigman (oral): And in Line 702 and 703, is there another place that states where prominent places are? There is an existing memo from the previous Councilman DelaRosa that identified such places, I don’t see it referenced in this Election Law draft.

Response

The commenter questions if the Law provides more information on where the prominent places of the Nation are located since the Law requires tentative results of the election to be posted in the prominent locations.

The Law defines prominent locations as the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, the Oneida Community Health Center, the South Eastern Oneida Tribal Services (SEOTS) building, and all fuel stations operated by the Nation. [1 O.C. 102.3-1(u)].

The Law's definition of prominent locations would supersede any prior memorandums of the Nation that identified prominent locations. Therefore, there is no revision to the Law recommended based on this comment.

LOC Consideration

The Legislative Operating Committee agrees that the Law's definition of prominent locations would supersede any prior memorandums that identified prominent locations.

Comment 4 – SEOTS as a Polling Place:

Election Board (written): SEOTS isn't noted as a polling location. Due to GTC decision in 2015, do we need to have it noted in the Law? Does the new law supercede the GTC decision?

Response

The commenter notes that SEOTS is not noted as a polling location in the Law, and questions if because of the General Tribal Council's 2015 directive does it need to be noted in the Law.

At a special General Tribal Council meeting held on March 28, 2015, General Tribal Council adopted a motion to require that a Milwaukee polling site be included in all tribal elections. This General Tribal Council directive did not specify that SEOTS has to be the location of a Milwaukee polling site. Therefore, although SEOTS currently serves as the polling location in Milwaukee, a more appropriate polling site other than the SEOTS building could be found and utilized in Milwaukee in the future.

Additionally, the Law does not specify what locations will serve as polling places of the Nation, but instead states that 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. [1 O.C. 102.14-1]. This allows the Nation the flexibility to change the location of the polling places to meet the needs of the Nation without having to amend the Law. The Law does not necessarily supersede the General Tribal Council's March 28, 2015, directive as the Law still allows the Nation to comply with having a polling location in Milwaukee without having to specifically state in the Law where that polling location is.

Therefore, SEOTS does not have to be specifically listed as a polling location in the Law in order to comply with the General Tribal Council's March 28, 2015, directive.

There is no revision to the Law needed based on this comment.

LOC Consideration

The Legislative Operating Committee agrees that SEOTS does not specifically need to be listed in the Law as a polling location, and therefore there is no revision to the Law necessary based on this comment.

Comment 5 – Adoption of Election Board Standard Operating Procedures:

102.4. Election Board

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

(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.

Election Board (written): Lines 118-120. Remove entire section. Why would OBC and/or GTC adopt EB SOP's? This isn't efficient for future needed changes.

Response

The commenter requests that the requirement that any 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 be removed from the Law. The commenter expresses concern that this provision of the Law would prevent future needed changes to standard operating procedures of the Election Board from occurring in an efficient manner.

In addition to the requirements of this Law regarding standard operating procedures, the Boards, Committees, and Commissions law requires that all standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file. [1 O.C. 105.12-2].

The Legislative Operating Committee will have to determine whether the requirement of the Election Board's standard operating procedures to be adopted by the Oneida Business Committee or the General Trial Council should remain in the Law. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and require the Election Board's standard operating procedures to be adopted by the Oneida Business Committee or the General Trial Council.
2. The Law should be amended to remove the requirement that the Election Board's standard operating procedures to be adopted by the Oneida Business Committee or the General Trial Council.

LOC Consideration

The Legislative Operating Committee had a long discussion on whether the Election Board's standard operating procedures should have to be adopted by the Oneida Business Committee or General Tribal Council.

The Legislative Operating Committee discussed the fact that requiring the standard operating procedures to be adopted by the Oneida Business Committee or General Tribal Council would allow for more oversight on the processes and procedures that are used to implement the election and prevent any radical policy changes from occurring. Although the standard operating procedures of other boards, committees, and commissions of the Nation are not adopted by the Oneida Business Committee or General Tribal Council and are simply adopted by the board, committee, or commission itself, the Legislative Operating Committee feels that due to the fact that the Election Board's standard operating procedures affect how an election of the Nation is executed, which is a very important subject, that might require a higher standard of review.

The Legislative Operating Committee also discussed the fact that the Election Board should be allowed some autonomy in the development of standard operating procedures that would govern the actions of the board itself. Checks and balances still exist throughout the adoption of a standard operating procedure within the board itself since standard operating procedures have to be formally adopted by the board, which would most likely require a majority vote. Allowing the Election Board to adopt standard operating procedures without having to obtain adoption through the Oneida Business Committee or General Tribal Council will allow the Election Board more flexibility and efficiency in updating the standard operating procedures to meet the needs of the Nation.

The Legislative Operating Committee then reviewed what standard operating procedures the Election Board currently has adopted and discussed the fact that most standard operating procedures are very detailed and specific to the execution of certain activities of the Election Board. The Legislative Operating Committee expressed concern that requiring the Oneida Business Committee or the General Tribal Council to adopt standard operating procedures would be asking the Oneida Business Committee or the General Tribal Council to micromanage the Election Board.

Ultimately, the Legislative Operating Committee determined that the Election Board should not have to get their standard operating procedures adopted by the Oneida Business Committee or the General Tribal Council. The Legislative Operating Committee based this decision on the fact that members of the Election Board are voted into his or her position by the membership of the Nation with the expectation that he or she are qualified to handle the responsibilities that belong to the Election Board, including the adoption of standard operating procedures.

Due to the importance of how an election is executed, the Legislative Operating Committee directed that a provision be included in the Law that requires the Election Board to send all updated standard operating procedures to an Oneida Business Committee meeting agenda for the Oneida Business Committee to accept as information only. The Election Board will not be presenting the bylaws to the Oneida Business Committee to obtain approval or adoption of the standard operating procedures, but will simply be a way to notify the community that standard operating procedures regarding the election have changed.

The Legislative Operating Committee directed that the following revision be made to the Law based on this comment:

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

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

(1) ~~The Actions of the~~ Election Board ~~regarding~~ shall present updated and/or new standard operating procedures ~~shall be presented~~ to the Oneida Business Committee who shall then accept the standard operating procedures as information only ~~adopt or forward action(s) to the General Tribal Council for adoption.~~

Comment 6 – Specific Duties of the Election Board Chairperson:

102.4. Election Board

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:

(2) oversee the conduct of the election;

Election Board (written): Line 132. EB Chair is at one (1) polling site. Due to having two (2) polling sites can we change it to Chair or designee oversee the conduct of the election.

Response

The commenter requests that the section of the Law which states that it is the specific duty of the Chairperson of the Election Board to oversee the conduct of the election be amended to reference a designee of the Chairperson since there are more than one (1) polling sites.

The purpose of this section of the Law is to provide for specific duties unique to the Chairperson of the Election Board. The Chairperson of the Election Board is delegated the authority to oversee the conduct of the election. This responsibility to oversee the conduct of the election is for the election as a whole and includes the conduct of any and all polling sites. Although the Chairperson cannot be physically present at all polling sites during an election, the Chairperson is still the individual delegated the authority and responsibility to oversee the conduct of the election and all activities included in the election process.

It would be inappropriate to reference a designee in this section of the Law as the authorities and responsibilities delegated through this provision are specific to the Chairperson.

There is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee agreed that it would be inappropriate to reference a designee in this section of the Law as the authorities and responsibilities delegated through this provision are specific to the Chairperson, and it will be the Chairperson that is responsible for the conduct of the election as a whole. The Legislative Operating Committee determined there is no revision needed to the Law based on this comment.

Comments 7 through 8 – Election Judge’s Communication with a Designee of the Chairperson:

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.

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

(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.

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

102.4. Election Board

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:

(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.

Election Board (written): Lines 40, 52, 86. Clerk, Election Judge, Teller - Line 52 - Judge advises EB Chair regarding voter eligibility - it s/b Chair or designee due to SEOTS polling site.

Election Board (written): Line 148. Can the Election Judge contact EB Chair or a designee if EB Chair is at a different polling site.

Response

The commenter questions whether the Election Judge can contact a designee of the Election Board Chairperson if a dispute or controversy arises that requires a decision of the Election Board Chairperson at a polling site where the Chairperson is not physically present. And if so, requests that the definition for Election Judge be modified to include reference to a designee of the Chairperson.

The Law requires that the Election Judges inform and advise the Chairperson of all aspects of the election, and that 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 in regard to the dispute. [1 O.C. 102.4-9(f)].

Due to the fact that the Law requires the Election Judges to inform the Chairperson of all aspects of the election and assist the Chairperson in making a determination in regard to the dispute, an Election Judge is not allowed to contact a designee of the Chairperson if the Chairperson is at a different polling site. The Election Judge would still be required to keep the Chairperson informed of the activities of the election, and consult the Chairperson for the resolution of disputes, even if the Chairperson is located at a different polling site.

There is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee agreed that it would be inappropriate to allow an Election Judge to contact a designee of the Chairperson. The Legislative Operating Committee determined there is no revision needed to the Law based on this comment.

Comment 9 – Number of At-Large Council Members that Requires a Primary Election:

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.

Election Board (written): Line 219. Can the number of at-large council members be lowered from sixteen (16) to eleven (11)?

Response

The commenter requests that the Law be amended so that the requirement to hold a primary election for an Oneida Business Committee position when there are sixteen (16) or more candidates for the at-large council member positions be lowered to be required when there are eleven (11) candidates for the at-large council member positions.

The number of candidates running for an at-large council member position that require a primary election is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following determinations:

1. The Law should remain as currently drafted and only require a primary election when there are sixteen (16) or more candidates for the at-large council member positions.
2. The Law should be amended as follows:

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~~eleven (16~~1~~) or more candidates for the at-large council member positions.

LOC Consideration

The Legislative Operating Committee considered whether the number of candidates running for an at-large council member position on the Oneida Business Committee that requires a primary election should be lowered from sixteen (16) or more candidates to eleven (11) or more candidates. The LOC reviewed how many individuals ran for an at-large council member positions in the last couple elections and realized that this number is usually well over sixteen candidates. Therefore, the Legislative Operating Committee determined lowering this standard for when a primary election is held would cause unnecessary confusion and not add any real value to the Law. The Legislative Operating Committee decided there was no revision to the Law necessary based on this comment.

Comment 10 – Number of Candidates Placed on the Ballot After a Primary Election:

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.

(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.

Election Board (written): Line 223. If we lower the at-large above, can we lower to top candidates from fifteen (15) to ten (10)?

Response

The commenter requests that the Law be amended so that the requirement that the fifteen (15) candidates that receive the highest number of votes cast for the at-large council member positions be placed on the ballot be lowered to the ten (10) candidates that receive the highest number of votes cast for the at-large council member positions be placed on the ballot.

The number of candidates who receive the highest number of votes cast and secure a place on the ballot is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following determinations:

1. The Law should remain as currently drafted and provide that the fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.
2. The Law should be amended as follows:

(b) The ~~fifteen~~ten (15~~0~~) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

LOC Consideration

Due to the fact that the Legislative Operating Committee determined not to lower the number of candidates running for an at-large council member position on the Oneida Business Committee that requires a primary election should be lowered from sixteen (16) or more candidates to eleven (11) or more candidates, the Legislative Operating Committee determined not to make a revision to the Law to lower the number of candidates that need to receive the highest number of votes in a primary election in order to secure a place on the ballot.

Comment 11 – Primary Elections:

102.8. Primary Elections for Oneida Business Committee Positions

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.

Election Board (written): Line 230. Remove: set for the primary election.

Response

The commenter suggests removing the words “set for the primary election” from the sentence contained in section 102.8-3 of the Law.

The following revision to the Law is recommended:

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 ~~date~~set for the primary election.

LOC Consideration

The Legislative Operating Committee decided that the recommended revision should be made to the Law to clarify section 102.8-3.

Comment 12 – Completed Applications for Candidacy:

102.9. Candidate Eligibility

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.

Election Board (written): Uncertain where this would statement would be most appropriate: At the time of submission of application for candidacy, the application must be completed fully. Any incomplete application will be considered ineligible.

Response

The commenter suggests that a provision be added to the Law that clearly states that at the time of submission of an application for candidacy, the application must be completely filled out, and if the application is not completed, the application will be considered ineligible.

The following revision is recommended to clarify this issue in the Law:

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.~~

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

LOC Consideration

The Legislative Operating Committee agreed to add the recommended statement to the Law in an effort to clarify that an application that is incomplete or does not include attached documentation verifying the applicant meets the minimum eligibility requirements at the time of submission shall be disqualified.

Comment 13 – Candidate Eligibility Public Record:

102.9. Candidate Eligibility

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.

Election Board (written): Lines 290-292. 102.9-6 Is this a candidacy list, sample ballot, etc? This is also the first time designee was noted in the law. Does designee need to be defined?

Response

The commenter questions what document section 102.9-6 of the Law references and whether it is a candidacy list or sample ballot. This provision of the Law provides that the name of a candidate and the position that candidate is seeking is public record, and that the Election Board shall make this record available to the public once the eligibility of the candidates has been determined. Whether this information is shared through a list of candidates or a sample ballot is not specified through the Law which provides discretion to the Election Board to determine in what format this information is shared.

This provision of the Law also states that the public record shall be made available to the public upon the determination of eligibility by the Election Board or the Election Board’s designee. The commenter questions if the term designee needs to be defined since this is the first time the term is being utilized in the Law. The term designee does not need to be defined in the Law because it is being used in its ordinary and everyday sense. The term designee is used in this sentence to signify that the Election Board may choose a designee to handle this responsibility if the Election Board desires.

There is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee agreed there is no revision to the Law needed based on this comment.

Comment 14 – Source of Candidate Eligibility:

102.9. Candidate Eligibility

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:

- (b) Qualifications of the position and citation of the source. Copies of source may be attached;

Election Board (written): Lines 298-299. Can you change the word "citation" of source.

Response

The commenter suggests amending the Law to change the word "citation" used in 102.9-7(b) for clarification purposes.

The following revision to the Law is recommended based on this comment:

- (b) Qualifications of the position and ~~citation~~reference to the source of the qualifications. Copies of source may be attached;

LOC Consideration

The Legislative Operating Committee agreed that the recommended revision should be made to the Law for clarification purposes.

Comment 15 – Issues with Campaigning:

102.10. Campaign Financing

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.

102.11-4. *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.**

Election Board (written): Line 318. Campaigning on tribal property.... Something should be added to the Law to eliminate members to campaign at any tribal offices or buildings. We experience issues with members having campaigning at the polling sites as well.

Response

The commenter suggests that a provision similar to that found in section 102.10-4 of the Law regarding violations of campaign financing restrictions be added to the Law to address campaigning on tribal property or at the polling sites, since this has been an issue the Election Board has seen occur.

The Law currently provides some restrictions on campaigning. The Law states that no campaigning of any type shall be conducted within two hundred and eighty (280) feet of the voting area during an election, excluding private property. [1 O.C. 102.11-1(a)]. Additionally, the Law prohibits employees of the Nation from engaging in campaigning for offices of the Nation during work hours. [1 O.C. 102.11-1(b)]. The Law then provides that any violations of the restrictions on campaigning shall result in a fine. [1 O.C. 102.11-4].

The Law currently does not provide a general prohibition against campaigning in any offices or buildings of the Nation. It would be a policy consideration for the Legislative Operating Committee to decide whether a general prohibition against campaigning in an office or building of the Nation should be included in the Law. The Legislative Operating Committee should consider whether any official or unofficial campaign events normally occur in buildings owned by the Nation, such as a candidate debate, forum, or meet and greet, and whether those events should be allowed. The Legislative Operating Committee may make one (1) of the following determinations:

1. The Law should remain as currently drafted and only restrict campaigning within two hundred and eighty (280) feet of the voting area during an election, and employees from campaigning during work hours.
2. The Law should be amended to include a general prohibition against campaigning in any office or building of the Nation. If the Legislative Operating Committee makes this determination then the following revision should be made to the Law:

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 and eighty (280) feet of the voting area during an election, excluding private property.

(b) No campaigning of any type shall be conducted within a building owned by the Nation.

(bc) 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.

102.11-4. *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.

LOC Consideration

The Legislative Operating Committee discussed whether the Law should include a provision that prohibits campaigning in any building owned by the Nation. The Legislative Operating Committee discussed the fact that if this provision is added, it should be clear that this does not include property that is privately inhabited, due to the fact that the Legislative Operating Committee does not want to prohibit campaigning in a person's home if the home is owned by the Nation.

The Legislative Operating Committee agreed that campaigning should generally be prohibited in a building owned and operated by the Nation, but wanted to allow an exception for an individual who may participate in an official campaign event that is held in a building owned by the Nation or an individual who may want to rent space within a building of the Nation such as a room in the Radisson Hotel and Conference Center or Parish Hall.

The Legislative Operating Committee determined the following revision should be made to the Law based on this comment:

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) No campaigning of any type shall be conducted within a building that is owned and operated by the Nation.

(1) Exception. An exception to the prohibition against campaigning in a building owned and operated by the Nation shall be made for:

(A) private property;

(B) an official election event sanctioned by the Election Board including, but not limited to, a candidate debate or forum; or

(C) an event held in a room and/or space rented by an individual.

(c**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.

102.11-4. *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.

Comment 16 – Campaigning Near a Voting Area:

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.

Bonnie Pigman (oral): Line 628-629, I’m questioning whether or not the information got moved to another document or elsewhere in the Election Law.

Response

The commenter references lines 628-629 of the redline draft which demonstrates a deleted sentence of “102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.”

The provision regarding the prohibition of campaigning near a polling site is found in section 102.9-6 of the currently effective Law, which governs the election process in general. This provision has been moved to section 102.11 of the proposed draft, which will specifically provide provisions regarding campaign signs and campaigning. Although the location within the Law has changed, the requirements of the Law remain the same.

There is no recommended revision based on this comment.

LOC Consideration

The Legislative Operating Committee determined that no revision to this Law is necessary.

Comment 17 – Size and Number of Campaign Signs Allowed:

102.11. Campaign Signs and Campaigning

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

(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.

Election Board (written): Lines 341-342. (b) Campaign sign size and # of signs - remove entire section.

Response

The commenter requests that the provision of the Law that provides that no campaign sign exceed sixteen (16) square feet in area, and that a maximum of seven (7) such signs may be placed on a building or lot, be removed from the Law.

In addition to the Law's provisions regarding the size of signs and maximum number of signs allowed on a lot, the Nation's Zoning and Shoreland Protection law addresses temporary political signs and contains the same guidelines and provisions. The Zoning and Shoreland Protection law provides that temporary political signs may be erected upon private property under the following conditions:

1. The person responsible for the erection or distribution of any such signs or the owners of the property upon which the signs are located shall remove the signs with five (5) business days after the election.
2. No sign shall exceed sixteen (16) square feet in area.
3. A maximum of seven (7) such signs may be placed on a building or on a lot.
[6 O.C. 605.11-7].

The Legislative Operating Committee previously made the decision that the Law, in addition to the Zoning and Shoreland Protection law, should address the allowable size for campaign signs, and the number of signs that may be allowed on a building or lot. What the Law provides for in terms of restrictions on the size and placement of campaign signs is a policy determination for the Legislative Operating Committee to make. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and address restrictions on the size and placement of campaign signs. Including the provisions on campaign sign size and maximum numbers of signs allowed in this Law in addition to the provisions contained in the Zoning and Shoreland Protection law may provide more convenience to the reader, since the reader only has to review this Law to understand what governs campaign signs.
2. The Legislative Operating Committee may determine that the Law should be amended to remove the provision addressing restrictions on the size and placement of campaign signs. Removing the campaign sign size and maximum number guidelines from this Law does not eliminate the responsibility of a candidate or property owner to follow the specifications for campaign signs, as the provisions will still remain in the Zoning and Shoreland Protection law. Removing the provision from this Law will simply eliminate a duplication of the same provision appearing in two different laws of the Nation. If the LOC makes this determination, then the LOC is encouraged to make the following revision to the Law:

102.11-2. *Placement of Campaign Signs.* Placement of campaign signs shall be in accordance with ~~pursuant to~~ the Nation's laws and policies governing zoning. ~~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.~~

LOC Consideration

The Legislative Operating Committee determined that the Law should remain as currently drafted and address restrictions on the size and placement of campaign signs. The Legislative Operating Committee made this decision in an effort to include all provisions regarding elections and the various expectations and regulations a candidate is expected to comply with in one law for the convenience of the candidate.

Comments 18 through 19 – Candidate Withdrawals Not Allowed to be Submitted to Alternates:

102.12. Candidate Withdrawal from the Election

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.

Election Board (written): Line 368. remove, excluding alternates.

Election Board (written): Line 372. remove, excluding alternates.

Response

The commenter suggests removing the provision of the Law that does not allow the submission of a withdrawal from the election to be given to an Election Board alternate, and instead requires the submission of the withdrawal to be given to a member of the Election Board.

Whether a candidate may submit a written withdrawal from the election to a member of the Election Board or an Election Board alternate is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following policy considerations:

1. The Law should remain as currently drafted and require that a withdrawal from the election is submitted in writing by the candidate to any Election Board member, excluding alternates.
2. The Law should be amended to allow for a withdrawal from the election to be submitted in writing by the candidate to any Election Board member, including alternates. If this decision is made the following revision should be made to the Law:

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~~including 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~~including alternates.

LOC Consideration

The Legislative Operating Committee determined the Law should remain as currently drafted and require that a withdrawal from the election be submitted in writing by a candidate to any Election Board member, excluding alternates. The Legislative Operating Committee based this decision on the fact that alternates are not full members of the Election Board and are simply temporary members that assist with election activities. Therefore, an alternate may not be as familiar with the various regulations, processes, or procedures, like a member of the Election Board may be.

Comment 20 – Petition for Candidacy:

102.13. Selection of Candidates

102.13-3. *Petition for Candidacy.* Any eligible member of the Nation may petition to be placed on a ballot 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 for candidacy. A petitioner shall use an official petition form and application for candidacy which may be obtained in the Business Committee Support Office or from the mailing for that caucus.
- (b) A petitioner 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 qualified voter's:
 - (1) printed name and address;
 - (2) date of birth;
 - (3) enrollment number; and
 - (4) signature.
- (d) Petitions shall be presented to the Nation's Secretary or 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.

(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.

Election Board (written): Lines 421-443. 102.13-3. Petition for Candidacy. Why is a petition required if not nominated at the Caucus?

Response

The commenter questions why a petition for candidacy is required by an individual who is not nominated at the caucus.

Allowing an individual who is not nominated for candidacy at the caucus the ability to petition for candidacy provides more opportunities to members of the community to participate in the election and pursue one of the many positions within the Nation’s government.

During the caucus, an individual shall be nominated for a position from the floor, by a person not himself or herself. [1 O.C. 102.13-2(b)]. Requiring a person to be nominated for a position by a person not himself or herself demonstrates some level of support for that candidacy from the community. An individual must be present during the caucus to accept or decline his or her nomination. [1 O.C. 102.13-2(c)]. If a person is not present at the caucus, misses the opportunity to accept a nomination, or is not nominated during the caucus, then the person can follow the process for petitioning for candidacy. [1 O.C. 102.13-2(c)]. The process for a petition for candidacy requires that a person completes an official petition form and application, as well as obtains at least ten (10) signatures of qualified voters of the Nation. [1 O.C. 102.13-3]. The requirement that the petitioner obtain at least ten (10) signatures of support again provides a demonstration that this individual has some level of support from the community in his or her endeavor to run for candidacy.

There is no recommended revision based on this comment.

LOC Consideration

The Legislative Operating Committee determined that there is no revision to the Law needed based on this comment.

Comment 21 – Notice of Election Mailed to all Members of the Nation:

102.14. Notice of Polling Places

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.

Election Board (written): Line 453. 102.14-3. Change to be mailed to head of household instead of all members.

Response

The commenter suggests the requirement that notice of the election be mailed to all members of the Nation through a mass mailing be changed to only require the notice of the election to be mailed to the head of every household.

Notice of the election is mailed to all members of the Nation through a mass mailing, and not just to the head of every household to ensure that all members of the Nation receive notice of the upcoming election to encourage participation in the election. To whom a notice of an election should be mailed to is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following policy considerations:

1. The Law should remain as currently drafted and require that notice for the election shall be mailed to all members of the Nation.
 - a. If the Legislative Operating Committee makes this determination, then the Legislative Operating Committee should consider whether “all members of the Nation” should be clarified to mean all members of the Nation that are eligible to vote in the election.
2. The Law should be amended to provide that the notice of an election will be mailed to every head of household instead of every member of the Nation individually.

LOC Consideration

The Legislative Operating Committee discussed whether notices of the election should be mailed to all members of the Nation, as currently drafted, or mailed only to the head of each household.

The Legislative Operating Committee discussed the need to be fiscally responsible, and the fact that mailing to the head of household instead of every member would cut down on multiple notices being sent to the same household.

The Legislative Operating Committee also discussed the importance of providing notice of an election to every member of the Nation in an effort to encourage participation in the election. The Legislative Operating Committee also discussed a potential situation that may arise in which the head of a household does not share the notice of an election with the other members of his or her household.

In an effort to balance the importance of noticing an election with the importance of fiscal responsibility, the Legislative Operating Committee ultimately decided that notices of an election should be sent out to every member of the Nation. The Legislative Operating Committee did determine however, that “every member of the Nation” should be clarified to “every member of the Nation eligible to vote in the election.”

The Legislative Operating Committee determined the following revision should be made to the Law:

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

Comment 22 – Contact with the Trust Enrollment Department Prior to a Requested Mailing:

102.14. Notice of Polling Places

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.

Election Board (written): Line 456. Change Chairperson to Chair or designee or EB member which allows other members to contact Trust.

Response

The commenter suggests that the Law be amended so that instead of the Election Board Chairperson providing notice to the Trust Enrollment Department of a requested mailing for a notice of an election, a designee of the Chairperson or any Election Board member can provide the Trust Enrollment Department the notice.

The purpose of delegating the authority to notify the Trust Enrollment Department to the Election Board Chairperson is having one clear delegation of who is responsible for making that communication. This allows the Trust Enrollment Department to always be aware of who will be providing the notification. Amending the Law to allow for any Election Board member or a designee of the Chairperson provide the notification to the Trust Enrollment Department would not provide the Trust Enrollment Department a clear designation of who to expect the notification from, but could allow for more flexibility on part of the Election Board.

Who is delegated the responsibility of providing notice to the Trust Enrollment Department of a requested mailing of a notice of an election is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following policy considerations:

1. The Law should remain as currently drafted and require that it is the Chairperson of the Election Board that provides the Trust Enrollment Department notice of a requested mailing.
2. The Law should be amended to allow for any member of the Election Board or a designee of the Chairperson to provide notice to the Trust Enrollment Department for a requested mailing, in addition to the Chairperson of the Election Board. If the Legislative Operating Committee makes this determination the following revision should be made to the Law:

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 or any other member of the Election Board, no less than twenty (20) calendar days prior to the requested mailing.

LOC Consideration

The Legislative Operating Committee determined that the Law should remain as currently drafted and require that it is the Chairperson of the Election Board that provides the Trust Enrollment Department notice of a requested mailing. The Legislative Operating Committee based this decision on the fact that it is an important responsibility of the Chairperson and therefore should not be delegated to any other member of the Election Board.

Comment 23 – Conduct of Trust Enrollment Department Personnel:

102.4. Election Board

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.

102.15. Registration of Voters

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.

Bonnie Pigman (oral): On lines 567-568, the conduct sentence doesn't appear to fit under 102.5-3. It seems it should fall under Section 102.4-9. You may need to add Trust Enrollment Department as a standalone category.

Response

The commenter states the opinion that the sentence, "The conduct of Trust Enrollment Department personnel is governed by the Election Board members during the voting period" does not fit under section 102.15-3 where it is currently found and instead should be placed in section 102.4-9.

The sentence the commenter references discusses the Trust Enrollment Department's responsibility to verify a person's enrollment in the Nation during the registration of voters for an election. The Law states that while conducting the verification of voters, the conduct of the Trust Enrollment Department personnel is governed by the Election Board members. For this reason, the information on the Trust Enrollment Department's responsibility during the registration of voters and who is responsible for the Trust Enrollment Department's conduct is found under the section of the law governing the registration of voters.

Moving this provision of the Law to section 102.4-9 would be inappropriate as section 102.4 of the Law governs the Election Board, and section 102.4-9 specifically governs the specific duties of officers and Election Board members. The Trust Enrollment Department personnel that assist with the registration of voters are not members of the Election Board.

There is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Comment 24 – Use of the Word Determine Instead of Decide:

102.15. Registration of Voters

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.

Bonnie Pigman (oral): Under Line 580, would like to see the word “decide” changed to “determine”.

Response

The commenter requests that the word “decide” in section 102.15-4 of the Law be revised to the word “determine.” Since the words decide and determine are synonyms and invoke the same meaning, there is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Comment 25 – Qualified and Verifiable to Vote:

102.15. Registration of Voters

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.

Bonnie Pigman (oral): Line 582, to add “voter” behind “qualified”.

Response

The commenter suggests to add the term “voter” behind the word “qualified” in the phrase, “whether the applicant is, in fact qualified and verifiable under Article III Section 2 of the Constitution to vote in the Nation’s elections.”

This suggestion is unnecessary and would result in an improper sentence, as the sentence is stating that the applicant is in fact qualified and verified under Article III Section of the Constitution *to vote*.

There is no recommended revision to the Law based on this comment.

LOC Consideration

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Comment 26 – Public Test of Ballot Machines:

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.

Election Board (written): Lines 483-492. 102.16-1. Public Test of Ballot Machines. Why does EB have to publicly test the machine? Section 102.16-3(a) indicates ballot box is empty and the zero (0) tape.

Response

The commenter questions why the requirement that the Election Board publicly test the ballot machines prior to the election was included in the Law, especially when section 102.16-3(a) of the Law already requires that the polls not be opened until 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.

The Legislative Operating Committee decided to include a provision in the Law that required a public test of the ballot machines in an effort to increase public trust and understanding of the election process. Although section 102.16-3(a) of the Law does require that the ballot box be empty and the ballot counting machine printer tape have a zero (0) total count before the polls can be opened, this simply indicates that there were no prior votes counted before the polls opened and does not provide assurance that the ballot machines are working as intended.

The public test of the ballot machines will demonstrate that the ballot machines are working as intended and accurately counting all ballots placed into the machine. Since the public test of the ballot machine will occur at least ten (10) days before the election, the Election Board will have the opportunity to address and resolve any errors or complications that occurred during the public test of the ballot machine before the actual election takes place.

The Legislative Operating Committee's decision to include a public test of the ballot machines in the Law is also consistent with the state of Wisconsin that requires municipalities to provide public tests of the ballot machines prior to an election. Currently, local municipalities such as the City of De Pere, City of Green Bay, and the Village of Ashwaubenon, provide public tests of the ballot machines prior to an election.

There is no recommended revision based on this comment.

LOC Consideration

The Legislative Operating Committee discussed the fact that the public test of the ballot machines will demonstrate that the ballot machines are working as intended and accurately counting all ballots placed into the machine, which will increase public trust and understanding of the election process.

The Legislative Operating Committee then briefly discussed whether the Law should include a provision that requires a checklist to be created that lists the tasks that are required to open the polls, and then on election day the checklist is completed and signed by members of the Election Board before the polls are opened to ensure that the proper process has been followed. The Legislative Operating Committee decided not to include this provision after a discussion about the fact that this should already be occurring through the use of standard operating procedures.

The Legislative Operating Committee determined there was no revision to the Law needed based on this comment.

Comment 27– Clarifying Ballot Box Language:

102.16. Election 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.

Election Board (written): Line 511. 102.16-9. Ballot Box. Change verbiage of "All ballots being votes" be changed? Something like all non-spoiled or rejected ballots...

Response

The commenter requests that the language in section 102.16-9 of the Law be clarified so that it is better understood that the ballots placed in the ballot box are non-spoiled and non-rejected ballots only.

The Law states that all ballots are placed in a receptacle clearly marked "Ballot Box" that shall be locked until counting at the close of the polls. [1 O.C. 102.16-9]. The Law later goes on to clarify that if a voter spoils his or her ballot, the voter shall be given a new ballot, and the spoiled ballot shall be marked "void: and initialed by two (2) Election Board members and placed into a locked sealed container marked as "Spoiled Ballots." [1 O.C. 102.16-10(a)]. Ballots that are rejected are placed in a specially marked sealed container until a review by the Election Board can occur to verify the authenticity of the ballot. [1 O.C. 102.16-11].

The following revision is recommended to eliminate any confusion regarding what ballots are placed in the "Ballot Box" receptacle:

102.16-9. *Ballot Box.* All ballots being used to votes, shall be placed in a receptacle clearly marked "Ballot Box," except for those ballots spoiled or rejected. and The Ballot Box shall be locked until counting at the close of polls. Provided that, Wwith electronic ballot counting, the

ballots may be placed within the ballot counting machine as they are received.

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

LOC Consideration

The Legislative Operating Committee agreed to make the recommended revision in an effort to eliminate any confusion.

Comment 28 – Delivery of Ballots to the Records Management Department:

102.16. Election Process

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.

Election Board (written): Lines 557-559. The OPD Officer at the SEOTS polling site doesn't bring the sealed container to Records Management on the day of election. Need to add more time for SEOTS. Add "within 48 hours" at the end of the sentence.

Response

The commenter states that the Oneida Police Officer at the SEOTS polling site does not deliver on the day of the election, the sealed container containing the counted ballots to the Records Management Department for retention, and therefore the Law should be amended to allow for more time for those ballots coming from SEOTS.

A failure of the Oneida Police Officer to deliver the sealed container containing the counted ballots to the Records Management Department for retention on the day of the election is a direct violation of this Law. The intent of this provision in the Law to ensure that the ballots from an election are retained in a secure and consistent manner by the Records Management Department. The Law currently does not address a different timeline, or different expectations or process, to ensure ballots from different polling locations are secured. The intent of the Law is that ballots from any and all locations are secured in the same manner.

The details regarding the process and procedure contained in the law for securing ballots after an election is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following policy considerations:

1. The Law should remain as currently drafted and require that an Oneida Police Officer deliver the sealed container containing the counted ballots from a polling location to the Records Management Department for retention on the day of the election, despite the location of the polling location.

2. The Law should be amended to provide an Oneida Police Officer additional time to deliver to the Records Management Department for retention the sealed container containing the counted ballots from a polling location located in Milwaukee. If the Legislative Operating Committee makes this determination, the Legislative Operating Committee will have to address the alternative timeframe, as well as additional process or procedure that would have to be drafted and included in the Law to ensure that the ballots are properly secured until the Oneida Police Office can deliver the ballots to the Records Management Department.

LOC Consideration

The Legislative Operating Committee decided that the Law should be amended to require an Oneida Police Officer deliver the sealed container containing the counted ballots from a polling location to the Oneida Police Department for retention on the day of the election, instead of the Records Management Department. The Legislative Operating Committee determined that it would be more efficient to have the Oneida Police Officer deliver the sealed container to the Police Department instead of the Records Management Department. The Legislative Operating Committee determined that for the sake of security of the ballots, the ballots should still be required to be delivered to the Oneida Police Department on the day of the election. The Legislative Operating Committee would like to see the Law outline the requirement that the Oneida Police Department would securely retain the ballots until the timeframe for all appeals of the election have expired.

The Legislative Operating Committee directed the following revision be made to the Law:

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

(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~~ **Oneida Police Department**.

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~~ **Oneida Police Department** for retention.

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~~ **Oneida Police Department** and transporting it to the ballot recounting location.

102.19-6. The Election Board shall send notice to the ~~Records Management Department~~ **Oneida Police 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.

After the Legislative Operating Committee made this decision, the Legislative Operating Committee asked the Oneida Police Department for input on the proposed changes. The Oneida Police Department expressed concern about the Oneida Police Department retaining ballots for an extended period of time as this would require the ballots to be comingled with criminal evidence, and a concern with the responsibility to destroy ballots after an election as this is not a criminal issue or responsibility but an administrative function. The Oneida Police Department expressed that currently on the day of the election the Oneida Police Officer delivers the ballots to the Evidence room in the Oneida Police Department, and the Oneida Police Department keeps the ballots until the next business day when the ballots are turned over to Records Management for retention.

After receiving the input from the Oneida Police Department, the Legislative Operating Committee decided to change the proposed language so that the Law reflects the current process. The Legislative Operating Committee directed the following revision be made to the Law:

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 [Oneida Police Department Records Management Department](#) for retention. [The Oneida Police Officer shall then deliver the sealed container to the Records Management Department for retention on the next business day.](#)

Comment 29 – When a Recount Can be Denied:

102.18. Recount Procedures

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.

Election Board (written): Lines 615-616. (a) not sure if that is the correct format or a # should be entered instead of (a). The sentence is also confusing, please clarify. Change to: 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 no recount request shall be honored.

Response

The commenter points out a formatting error in section 102.18-4 of the Law and requests that the sentence contained in this portion of the Law be clarified to eliminate any confusion on when a recount request will not be honored.

The commenter was correct in highlighting the formatting error of section 102.18-4, and in an effort to eliminate any confusion, the following revision to the Law is recommended based on this comment:

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~~**The Election Board shall not honor a** recount request ~~need be honored~~ where there have been two (2) recounts completed as a result of:

(1) a request ~~either as a~~for a recount of the whole election results; or

(2) a request for a recount of ~~that a~~ sub-section of the election results.

LOC Consideration

The Legislative Operating Committee agrees with making the recommended revision to section 102.18-4 of the Law.

Comment 30 – Use of the Term Original Members for a Recount:

102.18. Recount Procedures

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.

Election Board (written): Lines 620-621. 102.18.6. A recount shall be conducted by a quorum of the EB, including at least three (3) of the original EB members. Please clarify what "original" means due to alternates utilized during the elections.

Response

The commenter asks for clarification for what the term “original” means in reference to the requirement that three (3) of the original Election Board members must be included in the quorum of the Election Board that conducts the recount.

The term “original” used in section 102.18-6 of the Law means that at least three (3) of the Election Board members that were present during the election and assisted in counting the ballots originally must be present when the Election Board later conducts a recount.

The following revision to the Law is recommended to clarify this provision:

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 originally present during the election to count the ballots or review the election totals from the ballot machine. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

LOC Consideration

The Legislative Operating Committee agrees with making the recommended revision to section 102.18-6 of the Law.

Comment 31 – Use of an Electronic Ballot Counting Device:

102.18. Recount Procedures

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.**

Election Board (written): Lines 633-634. Prior to using an election ballot counting device... how can it be certified as correct prior to? Please clarify what this entire sentence means.

Response

The commenter requests clarification on how an electronic ballot counting device can be certified as correct prior to use by the Election Board either by the maker, the lessor of the machine, or the Election Board.

This provision provides that if the Election Board chooses to utilize an electronic ballot counting device of some kind, then the Election Board is required to ensure that the electronic ballot counting device is in good working order and can accurately recount the ballots. The certification that the electronic ballot counting device is in good working order and will count ballots as intended can come from the maker of the device, the lessor of the device, or the Election Board.

In an effort to clarify this provision of the Law, the following revision is recommended based on this comment:

- (b) Computer counted ballots shall be recounted twice and certified by the Election Judges. The Election Board shall certify that Prior to using an electronic ballot counting device is in good working order and can accurately count ballots prior to using the device in a recount. ~~it~~ The certification of the electronic ballot counting device shall come from either ~~certified as correct either by~~ the maker, lessor of the machine, or the Election Board.

LOC Consideration

The Legislative Operating Committee agrees with making the recommended revision to section 102.18-8(b) of the Law.

Comments 32 through 33 – Use of the Word Signatures in Regard to Trust Enrollment Department Verification:

102.13. Selection of Candidates

102.13-3. Petition for Candidacy. Any eligible member of the Nation may petition to be placed on a ballot 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 for candidacy. A petitioner shall use an official petition form and application for candidacy which may be obtained in the Business Committee Support Office or from the mailing for that caucus.
- (b) A petitioner 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 qualified voter's:
 - (1) printed name and address;
 - (2) date of birth;
 - (3) enrollment number; and
 - (4) signature.
- (d) Petitions shall be presented to the Nation's Secretary or 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.
- (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.

102.20-3. *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.

Bonnie Pigman (oral): Thank you. There was no sign-in sheet in the back of the room. Couple of things on the Election Law. The Trust Enrollment Department would like consideration to change the words in the document of signatures. We currently do not verify signatures of anyone because we don't have the capacity to do that. We verify that they are qualified voters. So if you could change that language we would much appreciate that.

Bonnie Pigman (oral): And in Lines 913 to 916, should read "A department to verify the signatures are of qualified voters and to notify the Election Board to provide notice that the petition may need to be placed on an upcoming ballot." I think it should be changed to that. If the petition is verified by the Trust Enrollment Department contains qualified voter signatures from at least ten percent of qualified voters. So again, trying to go from just saying qualified or just saying voters or saying signatures, specific to what the Constitution reads in regards to who is eligible and who is not. That's all. Thank you.

Response

The commenter requests the use of the term signatures be reconsidered in regard to what information the Trust Enrollment Department verifies, as the Trust Enrollment Department does not have the capability to verify the actual signature of an individual, but instead verifies that the individual who provided the signature on the petition is a qualified voter of the Nation.

In an effort to accurately capture what information the Trust Enrollment Department is responsible for verifying on a petition, the following revision to the Law is recommended:

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

(f) The Election Board shall forward the petitions to the Trust Enrollment Department for verification ~~of that all~~ individuals who provided a signatures ~~contained~~ on the petition are a qualified voter of the Nation.

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.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification ~~of that all~~ individuals who provided a signatures on the petition are qualified voters of the Nation, and to notify the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

LOC Consideration

The Legislative Operating Committee agrees with making the recommended revision to section 102.13-3 and 102.20-3 of the Law.

Comment 34 – Use of the Term Direct in Reference to the Trust Enrollment Department:

102.20. Constitutional Amendments

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.

(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.

Bonnie Pigman (oral): The second thing is on the information regarding calculating ten percent of the qualified voters for, when the Nation’s Secretary or designee wants us to calculate, the language in the document asks us that the Secretary is directing our department to do that. Based on General Tribal Council directives and governing documents, the Nation’s Secretary cannot direct the Trust Enrollment Department to do anything. The administration of that department is only overseen by the Trust Enrollment Committee, so if you could change the language from direct to request, that would be appreciated or request to the Trust Enrollment Committee to have us do that.

Response

The commenter requests that the use of the word “direct” in the phrase “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” be changed to the word “request.” The commenter makes the statement that the Nation’s Secretary is prohibited from directing the Trust Enrollment Department from doing anything based on “General Tribal Council directives and governing documents,” but does not provide a citation or reference to any specific directive or document that outlines this prohibition.

The use of the term “directs” invokes a presumption that the Trust Enrollment Department is mandated to calculate the number of signatures required for a petition submittal once the directive is received from the Secretary. If this term is changed to “request” instead of “direct” then a much different intent of the Law would be invoked, and it could be presumed that the Trust Enrollment Department could deny the request for the calculation. The intent of the Law is to have a calculation of the number of signatures required for a petition submittal once a petition form is requested from the Nation’s Secretary.

The use of specific terms within a law is a policy consideration for the Legislative Operating Committee. The Legislative Operating Committee may make one (1) of the following determinations:

1. The Law should remain as currently drafted and state that “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.”
2. The Law should be amended, not to use the term request instead of the term direct, but to clarify that the Trust Enrollment Department’s calculation is a direct result of a request for a petition form, and not necessarily solely contingent on the directive of the Nation’s Secretary. If the Legislative Operating Committee makes this determination the following revision to the Law should be made:

(b) ~~When~~Upon the request of a petition form ~~is requested~~, the Nation’s Secretary, or his or her designee, shall inform the Trust Enrollment Department that a petition form has been requested and a calculation of the signatures currently required for a petition submittal is needed. The ~~direct the~~ Trust Enrollment Department ~~to~~ shall then 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 and provide this information to the Nation’s Secretary. 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.

LOC Consideration

The Legislative Operating Committee determined that the Law should be amended to clarify that the Trust Enrollment Department’s calculation is a direct result of a request for a petition form, and not necessarily solely contingent on the directive of the Nation’s Secretary. The Legislative Operating Committee agreed with the recommended revision for this matter.

Comment 35 – Records Management Department:

Bonnie Pigman (oral): Under Line 648, 90, 758, 823, we’re still recommending the law state which Records Management Department, because there are many Records Management Departments within the organization. I don’t know if saying the Nation’s Records Management Department or official whatever would be more helpful.

Response

The commenter requests that the Law be more specific when referencing the Nation’s Records Management Department, as the commenter believes there are many Records Management Departments within the organization.

Although there may be many departments within the Nation that manage records to some degree, there is only one official Records Management Department within the Nation. Therefore, further specification is not necessary, so there is no revision recommended based on this comment.

LOC Consideration

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

Comment 36 – Use of a Third Party Entity for Elections:

Daniel Guzman (written): For general elections hire a third party entity to conduct the election and handle any discrepancies. This would include handling and controlling all ballots throughout the entire process. This would eliminate conflicts of interest, minimize error, and liability can be held by the entity.

Response

The commenter requests that the Law be amended so that a third-party entity can be hired to conduct general elections on behalf of the Nation.

The purpose of the Nation’s 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. [1 O.C. 102.1-1]. The Law then goes on to state that 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, and that this law is intended to govern all procedures used in the election process. [1 O.C. 102.1-2]. The policy and purpose of the Law invoke the expectation that the Nation would exercise sovereignty by handling the election process internally through the Election Board.

Whether to change the purpose and policy of the Law so that a third-party entity could conduct the election on behalf of the Nation would be a policy consideration for the Legislative Operating Committee.

LOC Consideration

The Legislative Operating Committee discussed the commenter’s suggestion to hire a third-party entity to conduct general elections on behalf of the Nation. The Legislative Operating Committee feels that allowing a third-party entity to control the Nation’s elections would jeopardize the Nation’s sovereignty. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment, as the Nation should continue to handle its own elections in an effort to exercise our inherent sovereignty.