



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room-2nd Floor Norbert Hill Center
December 5, 2018 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be Approved**
 - 1. November 21, 2018 LOC Meeting Minutes (pg. 2)
- III. Current Business**
 - 1. Election Law Amendments (pg. 4)
 - 2. Sanctions and Penalties Law (pg. 144)
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
November 21, 2018
9:00 a.m.

Present: David P. Jordan, Jennifer Webster, Kirby Metoxen

Excused: Ernest Stevens III, Daniel Guzman King

Others Present: Kristen Hooker, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Leyne Orosco, Brooke Doxtator, Bonnie Pigman

**note: Due to an error with the audio equipment this meeting was not recorded.*

I. Call to Order and Approval of the Agenda

David P. Jordan called the November 21, 2018 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to approve the agenda as is; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

November 7, 2018 LOC Minutes

Motion by Kirby Metoxen to approve the November 7, 2018 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Petition: Dallas – Special Per Capita Payments and/or Options

Motion by Jennifer Webster remove the Petition: Dallas-Special Per Capita Payments and/or Options from the active files list; seconded by Kirby Metoxen. Motion carried unanimously.

2. Petition: Cathy L. Metoxen- Oneida Youth Leadership Institute

Motion by Kirby Metoxen to approve the Petition: Cathy L. Metoxen - Oneida Youth Leadership Institute statement of effect and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

3. Election Law Amendments

Motion by Jennifer Webster to accept the public meeting comments and the public comment review memorandum and defer this item to a work meeting; seconded by Kirby Metoxen. Motion carried unanimously.

IV. New Submissions



1. Recycling and Solid Waste Disposal Amendments

Motion by Jennifer Webster to add the Recycling and Solid Waste Disposal Law amendments to the active files list and assign Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

2. Petition: Scott Kosbab – Creating Term Limits Law

Motion by Kirby Metoxen to add the Petition: Scott Kosbab – Creating Term Limits Law to the active files list and assign David P. Jordan as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

3. Petition: Gina D. Powless – Rescinding the Removal Law

Motion by Kirby Metoxen to add the Petition: Gina D. Powless – Rescinding the Removal Law to the active files list and assign Kirby Metoxen as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

V. Additions - None

VI. Administrative Items

1. Oneida Personnel Commission Update

Motion by Jennifer Webster to accept the Oneida Personnel Commission update and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Kirby Metoxen to adjourn the November 21, 2018 Legislative Operating Committee meeting at 9:23 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee
December 5, 2018

Election Law Amendments

Submission Date: 12/6/17	Public Meetings: 11/8/18
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *On November 12, 2017, the General Tribal Council adopted a motion to identify amendments to the Election Law and bring back to the GTC in calendar year 2018.*

11/12/17 GTC: Motion by Dylan Benton to accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the General Tribal Council during calendar year 2018. Seconded by Loretta Metoxen. Motion carried by a show of hands.

12/6/17 LOC: Motion by Kirby Metoxen to add Election Law Amendments to the active files list as a high priority and assign Jennifer Webster as sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Jennifer Webster to direct the LRO Director to send a memo to the Secretary's Office updating her on this action; seconded Kirby Metoxen. Motion carried unanimously.

1/25/18: *Work Meeting.* Present: Tani Thurner, Jennifer Falck, Brandon Wisneski, Jennifer Webster, Racquel Hill (Election Board Chairperson), Sunshine Wheelock (Election Board Secretary), Vicki Cornelius, Patricia Lassila, Tonya Webster, Christina Liggins, and Tina Skenandore. This work meeting was held to gather input from the Election Board regarding what changes should be made to the law.

3/16/18: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Jennifer Webster, Cathy Bachhuber, Daniel Guzman King, Tani Thurner, Brandon Wisneski.

3/19/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Rosa Laster, Laura Laitinen-Warren, Ernest Stevens III, Tani Thurner, Brandon Wisneski.

3/23/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Cathy Bachhuber, Rosa Laster, Tani Thurner, Brandon Wisneski. The purpose of this work meeting was to discuss GTC comments.

3/29/18: *Work Meeting.* Present: Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Cathy Bachhuber, Daniel Guzman King, Tani Thurner, Brandon Wisneski. The purpose of this work meeting was to discuss GTC comments.

4/2/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Tani Thurner, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to discuss Election Board comments.

- 4/19/18:** *Work Meeting.* Present: David P. Jordan, Daniel Guzman King, Kirby Metoxen, Leyne Orosco, Jennifer Falck, Tani Thurner, Brandon Wisneski. The purpose of this work meeting was to discuss Election Board comments.
- 5/2/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Kirby Metoxen, Jennifer Falck, Tani Thurner, Brandon Wisneski. The purpose of this work meeting was to discuss Election Board comments and additional recommendations.
- 6/20/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Ernest Stevens III, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to review potential amendments to include in the memorandum to GTC.
- 7/12/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to discuss a new strategy to prepare the Election law to be brought back to GTC.
- 8/6/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Kristen Hooker. The purpose of this work meeting was to review the drafted amendments to the Election law and discuss additional amendments that should be made.
- 8/28/18:** *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Fawn Billie, Laura Laitinen-Warren. The LOC reviewed the legislative analysis and made policy considerations. The drafting attorney will update the draft, the analyst will update the legislative analysis, and the public meeting materials will be prepared.
- 9/5/18 LOC:** Motion by Jennifer Webster to approve the memo in the public meeting packet, send the Election Law Amendments to a public meeting November 8, 2018, forward all the materials to the OBC for inclusion in the October 28, 2018 GTC meeting materials, and forward the Election Law Amendments to the finance office for a fiscal impact statement; seconded by Daniel Guzman King. Motion carried unanimously.
- 9/5/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Jennifer Falck, Jo Anne House, Clorissa Santiago, Kristen Hooker, Brandon Wisneski, Maureen Perkins, Leyne Orosco. The purpose of this work meeting was to review and discuss GTC's motion on this matter and original intent, and how this item is moving forward.
- E-poll conducted.
- 9/19/18 LOC:** Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.
- 9/26/18 OBC:** Motion by David P. Jordan to approve the notice and materials for October 28, 2018, tentatively scheduled special General Tribal Council meeting, seconded by Daniel Guzman King. Motion carried.
- 10/8/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Kirby Metoxen, Ernest Stevens III, Clorissa N. Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to discuss the materials that will be included in the October 28, 2018, GTC meeting materials, and determined if any further materials should be developed to aid the LOC in that discussion at GTC.

- 10/17/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Rosa Laster. The purpose of this work meeting was to review the updated memo for the October 28, 2018, GTC meeting, and plan for how the LOC will address this issue.
- 10/22/18:** *Work Meeting.* Present: Jennifer Webster, Jennifer Falck, Brandon Wisneski, Clorissa N. Santiago. The purpose of this work meeting was to prepare for Jenny's presentation on the Election law update during the October 28, 2018, GTC meeting.
- 10/25/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Brandon Wisneski, Clorissa N. Santiago, Kristen Hooker. The purpose of this work meeting was to review the final materials and prepare for the presentation on the Election law update during the October 28, 2018, GTC meeting.
- 11/8/18:** Public Meeting Held.
- 11/16/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman, Brandon Wisneski, Clorissa N. Santiago. The purpose of this work meeting was to review and consider all public comments that were received during the public meeting and public comment period. The LRO will update the draft based on the LOC's considerations.
- 11/21/18 LOC:** Motion by Jennifer Webster to accept the public meeting comments and the public comment review memorandum and defer this item to a work meeting; seconded by Kirby Metoxen. Motion carried unanimously.
- 11/26/18:** *Work Meeting.* Present: Jennifer Webster, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to begin discussing what information should be included in the Election law adoption materials and presentation for GTC.
- 11/30/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and approve the adoption packet materials and PowerPoint presentation materials for the amendments to the Election law.

Next Steps:

- Accept the updated public comment review memorandum and updated draft.
- Approve the adoption packet for the amendments to the Election law and forward to the Oneida Business Committee for inclusion in the January 21, 2019, General Tribal Council special meeting materials for General Tribal Council's consideration of adoption.



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 Refence 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 Tribal 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 Tribal 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 Tribal 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.

(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.

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~~^a 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,~~ With 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 ~~Oneida Police Department~~ ~~Records Management 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 ~~Oneida Police Department~~ ~~Records Management 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 be 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.

Title 1. Government and Finances - Chapter 102

ELECTION

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

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

102.1. Purpose and Policy	102.11. Campaign Signs and Campaigning
102.2. Adoption, Amendment, Repeal	102.12. Candidate Withdrawal from the Election
102.3. Definitions	102.13. Selection of Candidates
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102.1. Purpose and Policy

102.1-1. Purpose. It is the purpose of this law to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

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

102.2. Adoption, Amendment, Repeal

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

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

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Alternate" shall mean an individual appointed by the Oneida Business Committee to serve on the Election Board during an election and until election results have been certified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(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.

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

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

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

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

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

102.4. Election Board

102.4-1. *Establishment.* An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Constitution.

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

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

- (a) he or she is a petitioner, applicant or candidate in any election;
- (b) a petitioner, applicant, or candidate in any election is an immediate family member of the Election Board member; or
- (c) there is otherwise a conflict of interest.

102.4-4. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

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

102.4-6 *Election Board Alternates.* The Oneida Business Committee may appoint ~~or reappoint~~ a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist ~~with~~during an election ~~day~~ and ~~pre-until~~ election ~~activities~~results have been certified.

102.4-7. The Election Board shall choose a Chairperson from amongst themselves as set out in the bylaws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and a Secretary.

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

- (a) The Election Board shall ensure that the election polling equipment and ballots are maintained in a locked and secured area when not in use for an election;
- (b) The Election Board shall develop and adhere to standard operating procedures regarding election activities and responsibilities;
 - (1) ~~Actions of the~~The Election Board ~~regarding~~shall present updated and/or new standard operating procedures ~~shall be presented~~to the Oneida Business Committee who shall then ~~adopt or forward action(s) to the General Tribal Council for adoption~~accept the standard operating procedures as information only.
- (c) The Election Board shall assist individuals with disabilities through the voting process;
- (d) The Election Board shall be in charge of all registration and election procedures; and
- (e) Upon completion of an election, the Election Board shall make a final report on the election results.

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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~~ Election Judge(s) shall assist the Chairperson in making a determination.

102.4-10. *Stipend Rates.* Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Oneida Business Committee.

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

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

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

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

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

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

102.5. General Elections

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

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

102.6. Special Elections

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

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

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

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

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

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

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

102.7. Referendums

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

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

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

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

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

102.8. Primary Elections for Oneida Business Committee Positions

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102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position or sixteen (16) or more candidates for the at-large council member positions.

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

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

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

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

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

102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

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

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

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

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

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

(1) a valid Wisconsin driver's license;

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

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

102.9-3. *Conflict of Interest.* No applicant shall have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an application for candidacy to the Nation's Secretary or the Business Committee Support Office.

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(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.

(2e) 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.

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

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

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

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

102.9-6. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Election Board's designee.

102.9-7. *Eligibility Review.* The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

(a) Position for which they were considered;

(b) —Qualifications of the position and ~~citation~~reference to the source of the ~~source~~qualification requirements. Copies of source may be attached;

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

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

102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide a request for a hearing on ineligibility within two (2) business days after the request is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the

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issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

102.10. Campaign Financing

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

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

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

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

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

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

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

102.11. Campaign Signs and Campaigning

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

(a) No campaigning of any type shall be conducted within two hundred 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 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) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours.

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

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

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

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

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

102.11-3. *Enforcement of Sign Placement.* The Zoning Administrator shall remove any campaign

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signs that are not in compliance with this law, in accordance with the Nation's laws and policies governing zoning. The Zoning Administrator shall notify the Election Board of campaign sign violations.

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

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

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

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

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

102.12. Candidate Withdrawal from the Election

102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by any method listed within this section shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

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

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

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

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

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

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

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

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

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

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102.13. Selection of Candidates

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

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

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

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

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

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

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

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

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

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

(d) Nominations shall consist of the following positions:

(1) Oneida Business Committee Chairperson;

(2) Oneida Business Committee Vice-Chairperson;

(3) Oneida Business Committee Treasurer;

(4) Oneida Business Committee Secretary;

(5) Oneida Business Committee Council Member; and

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

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 ~~petitioners~~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

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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 that~~ all ~~signatures contained~~ individuals who provided a signature on the petition ~~are a qualified voter of the Nation.~~

102.14. Notice of Polling Places

102.14-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses and/or facilities.

102.14-2. Notice of the election and polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

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

102.15. Registration of Voters

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

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

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

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

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

102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility of an individual being qualified to vote, an Election Board member serving as an ~~election judge~~ Election Judge shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned, and shall make such decisions from the facts available, whether the applicant is, in fact qualified and verifiable under Article III Section 2 of the Constitution to vote in the Nation's elections.

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

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

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

102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

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

102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results are posted.

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

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

102.16-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

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

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

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

(b) The Spoiled Ballot locked sealed containers shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

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

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(a) Computer rejected ballots shall be reviewed by the Election Board members to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in section 102.16-10 governing spoiled ballots.

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

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

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

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

(a) If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Board members for counting and tallying of ballots.

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

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

102.16-14. *Securing Ballots.* The Election Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Election Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Oneida Police 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.

102.17. Election Outcome and Ties

102.17-1. *Election Results Announcement.* The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement: "The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

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

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102.17-3. *Tie* . In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.17-4. *Ties of an Oneida Business Committee Position*. For Oneida Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount.

102.17-5. *Ties of Other Elected Positions*. For all elected positions other than the Oneida Business Committee, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

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

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

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

102.18. Recount Procedures

102.18-1. *Eligibility for a Recount*. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater.

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

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

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

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

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

(a) ~~No~~ The Election Board shall not honor a recount request ~~need be honored~~ where there have been two (2) recounts completed as a result of:

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

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

102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

102.18-6. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the ~~original~~ Election Board members 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.

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

102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

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

102.19. Challenges and Declaration of Results

102.19-1. *Challenges*. Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

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

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

102.19-2. *The Final Report*. The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

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- 665 (a) Total number of persons voting;
 - 666 (b) Total votes cast for each candidate by subsection of the ballot;
 - 667 (c) List of any ties and final results of those ties, including the method of resolution;
 - 668 (d) List of candidates elected and position elected to;
 - 669 (e) Number of spoiled ballots; and
 - 670 (f) Cost of the election, including the compensation paid to each Election Board member.
- 671 102.19-3. *Declaration of Results.* The Business Committee shall declare the official results of the
 672 election and send notices regarding when the swearing in of newly elected officials shall take place
 673 within ten (10) business days after receipt of the Final Report.
- 674 102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried
 675 position effective prior to taking an Oneida Business Committee oath of office
- 676 102.19-5. Except in the event of an emergency, as determined by the Oneida Business Committee,
 677 a newly elected official shall be sworn into office no later than thirty (30) calendar days after the
 678 official results of an election are declared by the Oneida Business Committee.
- 679 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall
 680 be considered vacant and the Election Board shall declare the next highest vote recipient
 681 the winner. This procedure shall be repeated as necessary until a winner is declared.
 - 682 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
 683 special election shall be held.
- 684 102.19-6. The Election Board shall send notice to the Records Management Department to destroy
 685 the ballots thirty (30) calendar days after the election or after the final declaration of official
 686 election results occurs, whichever is longer.

688 **102.20. Constitutional Amendments**

- 689 102.20-1. Pursuant to Article VI of the Constitution, amendments to the Constitution may be
 690 initiated by the Oneida Business Committee or a petition of qualified voters.
- 691 102.20-2. *Constitutional Amendments by the Oneida Business Committee.* The requirements for
 692 the Oneida Business Committee's initiation of amendments to the Constitution are as provided in
 693 the Constitution. Additional requirements for constitutional amendments by the Oneida Business
 694 Committee shall be further detailed in the supporting standard operating procedures which the
 695 Oneida Business Committee shall adopt.
- 696 102.20-3. *Constitutional Amendments by a Petition of Qualified Voters.* Qualified voters may
 697 petition to amend the Constitution by submitting a petition to the Nation's Secretary which
 698 includes the full text of the proposed amendments and signatures that are equal in number to at
 699 least ten percent (10%) of all members qualified to vote.
- 700 (a) Qualified voters may request a petition form from the Nation's Secretary or the
 701 Business Committee Support Office.
 - 702 (b) When Upon the request of a petition form is requested, the Nation's Secretary, or his or
 703 her designee, shall directly inform the Trust Enrollment Department to that a petition form has
 704 been requested and a calculation of the signatures currently required for a petition submittal
 705 is needed. The Trust Enrollment Department shall then calculate the number of signatures
 706 currently required for a petition submittal, which shall be ten percent (10%) of all members
 707 qualified to vote on the date the petition form is requested from the Nation's Secretary or
 708 the Business Committee Support Office. and provide this information to the Nation's
 709 Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment

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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~~that all individuals who provided a signature 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.

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

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

102.20-5. The Election Board shall publish any proposed amendments to the Constitution by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place, at administrative offices of the Nation, and shall also be published in the official media outlets.

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

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

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

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-07-6-98-A

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757 Amended- October 11, 2008 (General Tribal Council Meeting)
758 Amended-GTC-01-04-10-A
759 Amended – BC-02-25-15-C
760 Amended – GTC-04-23-17-A
761 Amended – GTC-__-__-__-__

Title 1. Government and Finances - Chapter 102

ELECTION

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

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

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

102.1. Purpose and Policy

102.1-1. *Purpose.* It is the purpose of this law to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

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

102.2. Adoption, Amendment, Repeal

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

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

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Alternate" shall mean an individual appointed by the Oneida Business Committee to serve on the Election Board during an election and until election results have been certified.

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

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

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

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

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

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

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

(i) "Constitution" means the Constitution and By-laws of the Oneida Nation.

(j) "Election" shall mean every primary and election.

(k) "Election Judge" shall mean an Election Board member who informs and advises the Election Board Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

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

(m) "Immediate family member" means an individual's father, mother, grandparent, sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-brother, step-daughter, step-son, and any of the these relations attained through legal adoption.

(n) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

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

(p) "Nation" means the Oneida Nation.

(q) "Official media outlets" means the Oneida Nation's website and the Kalihwisaks newspaper as identified by the Oneida Business Committee through resolution BC-03-22-17-B.

(r) "Oneida Police Officer" shall mean an individual employed as a police officer with the Oneida Police Department.

(s) "Private property" shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

(t) "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.

(u) "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18) years of age or older as defined in Article III, Section 2 of the Constitution.

(v) "Rejected ballots" shall mean those ballots which are rejected by the vote tabulating

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machine.

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

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

102.4. Election Board

102.4-1. *Establishment.* An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Constitution.

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

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

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

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

(c) there is otherwise a conflict of interest.

102.4-4. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

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

102.4-6 *Election Board Alternates.* The Oneida Business Committee may appoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist during an election and until election results have been certified.

102.4-7. The Election Board shall choose a Chairperson from amongst themselves as set out in the bylaws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and a Secretary.

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

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

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

(1) The Election Board shall present updated and/or new standard operating procedures to the Oneida Business Committee who shall then accept the standard operating procedures as information only.

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

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

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

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

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

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

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

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

(d) *Clerks*. The clerks shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election.

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

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

(f) *Election Judges*. Election Judges shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Election Judge(s) shall assist the Chairperson in making a determination.

102.4-10. *Stipend Rates*. Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Oneida Business Committee.

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

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

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

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

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

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

102.5. General Elections

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

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

102.6. Special Elections

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

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

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

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

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

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

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

102.7. Referendums

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

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

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

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

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

102.8. Primary Elections for Oneida Business Committee Positions

102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position or sixteen (16) or more candidates for the at-large council member positions.

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

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

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

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

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

102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

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

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

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;
- (b) be a qualified voter on the day of the election; and
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.9-3. *Conflict of Interest.* No applicant shall have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an application for candidacy to the Nation's Secretary or the Business Committee Support Office.

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

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(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.

(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.

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

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

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

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

102.9-6. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Election Board's designee.

102.9-7. *Eligibility Review.* The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

(a) Position for which they were considered;

(b) Qualifications of the position and reference to the source of the qualification requirements. Copies of source may be attached;

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

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

102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide a request for a hearing on ineligibility within two (2) business days after the request is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

102.10. Campaign Financing

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

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

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

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

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

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

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

102.11. Campaign Signs and Campaigning

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

(a) No campaigning of any type shall be conducted within two hundred 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 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) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours.

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

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

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

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

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

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

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102.11-4. *Violations of Campaign Restrictions.* A violation of a restriction on campaigning, or campaign sign restrictions shall result in a fine.

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

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

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

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

102.12. Candidate Withdrawal from the Election

102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by any method listed within this section shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

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

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

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

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

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

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

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

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

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

102.13. Selection of Candidates

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

(a) The caucus for the general election shall be held at least seventy-five (75) calendar

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days prior to the election date.

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

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

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

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

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

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

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

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

(d) Nominations shall consist of the following positions:

(1) Oneida Business Committee Chairperson;

(2) Oneida Business Committee Vice-Chairperson;

(3) Oneida Business Committee Treasurer;

(4) Oneida Business Committee Secretary;

(5) Oneida Business Committee Council Member; and

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

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 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.

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

102.14. Notice of Polling Places

102.14-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses and/or facilities.

102.14-2. Notice of the election and polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

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

102.15. Registration of Voters

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

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

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

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

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

102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility of an individual being qualified to vote, an Election Board member serving as an Election Judge shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned, and shall make such decisions from the facts available, whether the applicant is, in fact qualified and verifiable under Article III Section 2 of the Constitution to vote in the Nation's elections.

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

102.16. Election Process

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

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(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.

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

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

102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

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

102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results are posted.

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

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

102.16-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

102.16-9. *Ballot Box.* All ballots used to vote, shall be placed in a receptacle clearly marked "Ballot Box," except for those ballots spoiled or rejected. The ballot box shall be locked until counting at the close of polls. With 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.

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

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

(b) The Spoiled Ballot locked sealed containers shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

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

(a) Computer rejected ballots shall be reviewed by the Election Board members to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in section 102.16-10 governing spoiled ballots.

(b) Ballots rejected, either during the computer process or during a manual counting, shall

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be reviewed by the Election Board members to verify that they are authentic. If the Election Board members determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated “void” and placed in a sealed container marked “Void Ballots.”

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

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

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

(a) If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Board members for counting and tallying of ballots.

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

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

102.16-14. *Securing Ballots*. The Election Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Election Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Oneida Police 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.

102.17. Election Outcome and Ties

102.17-1. *Election Results Announcement*. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement: "The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

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

102.17-3. *Tie*. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.17-4. *Ties of an Oneida Business Committee Position*. For Oneida Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if

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there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount.

102.17-5. *Ties of Other Elected Positions.* For all elected positions other than the Oneida Business Committee, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

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

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

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

102.18. Recount Procedures

102.18-1. *Eligibility for a Recount.* A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater.

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

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

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

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

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

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

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

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

102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

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

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(3) of the 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.

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

102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

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

102.19. Challenges and Declaration of Results

102.19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

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

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

102.19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting;

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

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

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

(e) Number of spoiled ballots; and

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

102.19-3. *Declaration of Results.* The Business Committee shall declare the official results of the

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election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried position effective prior to taking an Oneida Business Committee oath of office

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

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

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

102.19-6. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

102.20. Constitutional Amendments

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

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

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

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

(b) Upon the request of a petition form, 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 Trust Enrollment Department 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.

(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

Draft 2 for GTC Consideration
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where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification that all individuals who provided a signature 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.

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

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

102.20-5. The Election Board shall publish any proposed amendments to the Constitution by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place, at administrative offices of the Nation, and shall also be published in the official media outlets.

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

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

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

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-07-6-98-A

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

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Amended – GTC-__-__-__-



TO: General Tribal Council
FROM: Oneida Business Committee
DATE: January 21, 2019
RE: Amendments to the Election Law

Please find the following attached backup documentation for your consideration of the amendments to the Election law:

1. Resolution: Amendments to the Election Law
2. Statement of Effect: Amendments to the Election Law
3. Election Law Amendments Legislative Analysis
4. Election Law Amendments (Redline)
5. Election Law Amendments (Clean)
6. Election Law Amendments Fiscal Impact Statement
7. Election Law Amendments PowerPoint Presentation Slides

Overview

At the November 12, 2017, Special General Tribal Council meeting, the General Tribal Council adopted a motion to *“accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to action by the GTC during calendar year 2018.”*

In accordance with General Tribal Council’s directive, the Legislative Operating Committee began developing amendments to the Election law. In the development of these amendments, the Legislative Operating Committee reviewed the Election Board’s bylaws, standard operating procedures, final election reports, Oneida Judiciary decisions, General Tribal Council meeting materials and election laws from other tribal nations. The Legislative Operating Committee also held work meetings with the Election Board, received comments from the Trust Enrollment, and held a public meeting.

At the October 28, 2018, General Tribal Council meeting an Election law update from the Legislative Operating Committee was included on the agenda. This update included a draft of the proposed amendments and notice of the public meeting and comment period for members to provide feedback on the amendments. At this meeting, the General Tribal Council adopted a motion *“to adjourn and forward the remaining items, VI.A. Petitioner Linda Dallas re: Medicare Part B premium payment and VI.B. Update regarding Election law amendments, to the 2019 annual meeting in January.”*

This resolution adopts the proposed amendments to the Election law. The amendments to the Election law will:

- Require the Election Board to ensure election polling equipment and ballots are maintained in a locked and secured area when not in use for an election [1 O.C. 102.4-8(a)];
- Clarify when a member of the Election Board must recuse themselves from election activities [1 O.C. 102.4-3];
- Remove term limits for members of the Election Board [1 O.C. 102.4];
- Clarify the process for submitting referendum questions [1 O.C. 102.7];
- Shorten the timeframe for holding an election [1 O.C. 102.8-2, 102.13-1];
- Clarify candidate eligibility in regard to positions on the Oneida Business Committee and Judiciary [1 O.C. 102.9-5];
- Transfer hearing authority from the Election Board to the Judiciary [1 O.C. 102.9-8];
- Update the process for conducting a caucus [1 O.C. 102.13-1, 102.13-2];
- Require notice of the election and election results to be posted on the Nation's website [1 O.C. 102.14-1, 102.17-2];
- Shorten the voter registration form [1 O.C. 102.15-1];
- Eliminate provisional ballots for voters who do not show a photo ID or are ruled ineligible to vote [1 O.C. 102.15-5];
- Require a public test of the ballot machines prior to an election [1 O.C. 102.16-1];
- Clarify the process for voters who require assistance at the polls [1 O.C. 102.16-4];
- Require the separation of ballots from different polling locations [1 O.C. 102.16-9(a)];
- Update the process for handling spoiled ballots [1 O.C. 102.16-10];
- Reduce the number of Election Board members required to be at each polling site [1 O.C. 102.16-12(a)];
- Update the process for conducting a recount [1 O.C. 102.18];
- Clarify and update additional language throughout the Law.

In accordance with the Legislative Procedures Act, a public meeting on the proposed amendments to the Election law was held on November 8, 2018. Four (4) members of the community attended the public meeting with one (1) person providing oral comments. The public comment period closed on November 16, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on November 16, 2018. Any changes made based on those comments have been incorporated into this draft. Additional information regarding the comments received during the public comment period and the Legislative Operating Committee's consideration of those comments can be found at <https://oneida-nsn.gov/government/register/public-meetings/>.

Requested Action

Adopt the Resolution: Amendments to the Election Law.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

GTC Resolution # _____ Amendments to the Election Law

- 1
- 2
- 3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 4 recognized by the laws of the United States of America; and
- 5
- 6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 7
- 8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 10
- 11 **WHEREAS,** the Election law ("the Law") was most recently amended by the General Tribal Council
- 12 through resolution BC-04-23-17-A; and
- 13
- 14 **WHEREAS,** the purpose of the Law is to govern the procedures for the conduct of orderly elections of
- 15 the Nation and provide clearly defined duties and responsibilities of the Election Board
- 16 members and other persons employed by the Oneida Nation in the conduct of elections;
- 17 and
- 18
- 19 **WHEREAS,** the amendments to this Law require the Election Board to ensure election polling
- 20 equipment and ballots are maintained in a locked and secured area when not in use for an
- 21 election; and
- 22
- 23 **WHEREAS,** the amendments to the Law clarify when a member of the Election Board must recuse
- 24 themselves from election activities; and
- 25
- 26 **WHEREAS,** the amendments remove term limits for members of the Election Board; and
- 27
- 28 **WHEREAS,** the amendments clarify the process for submitting referendum questions; and
- 29
- 30 **WHEREAS,** the amendments shorten the timeframe for holding an election; and
- 31
- 32 **WHEREAS,** the amendments to this Law clarify candidate eligibility in regard to positions on the Oneida
- 33 Business Committee and Judiciary; and
- 34
- 35 **WHEREAS,** the amendments to this Law transfer hearing authority from the Election Board to the
- 36 Judiciary; and
- 37
- 38 **WHEREAS,** the amendments update the process for conducting a caucus; and
- 39
- 40 **WHEREAS,** the amendments require notice of the election and election results to be posted on the
- 41 Nation's website in addition to prominent locations; and
- 42
- 43 **WHEREAS,** the amendments to the Law shorten the voter registration form; and

44 **WHEREAS,** the amendments eliminate provisional ballots for voters who do not show a photo ID or are
45 ruled ineligible to vote; and
46

47 **WHEREAS,** the amendments to the Law require a public test of the voting machines prior to the election;
48 and
49

50 **WHEREAS,** the amendments clarify the process for voters who require assistance at the polls; and
51

52 **WHEREAS,** the amendments require the separation of ballots from different polling locations; and
53

54 **WHEREAS,** the amendments to the Law update the process for handling spoiled ballots; and
55

56 **WHEREAS,** the amendments to the Law reduce the number of Election Board members required at
57 each polling site; and
58

59 **WHEREAS,** the amendments update the process for conducting a recount; and
60

61 **WHEREAS,** the amendments to this Law make other minor drafting revisions and updates; and
62

63 **WHEREAS,** a public meeting on the proposed amendments to this Law was held on November 8, 2018,
64 in accordance with the Legislative Procedures Act, and the public comments were
65 reviewed and accepted by the Legislative Operating Committee on November 16, 2018;
66 and
67

68 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Election law are hereby adopted and
69 shall be effective February 4, 2019.
70
71



Statement of Effect

Amendments to the Election Law

Summary

This resolution adopts amendments to the Election law.

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

Date: December 5, 2018

Analysis by the Legislative Reference Office

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. This resolution adopts amendments to the Election law, which comply with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Election law was adopted by the Oneida General Tribal Council for the purpose of governing the procedures for the conduct of orderly elections of the Nation, and to provide clearly defined duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. [1 O.C. 102.1-1, 102.1-2].

The amendments to the Election law will:

- Require the Election Board to ensure election polling equipment and ballots are maintained in a locked and secured area when not in use for an election [1 O.C. 102.4-8(a)];
- Clarify when a member of the Election Board must recuse themselves from election activities [1 O.C. 102.4-3];
- Remove term limits for members of the Election Board [1 O.C. 102.4];
- Clarify the process for submitting referendum questions [1 O.C. 102.7];
- Shorten the timeframe for holding an election [1 O.C. 102.8-2, 102.13-1];
- Clarify candidate eligibility in regard to positions on the Oneida Business Committee and Judiciary [1 O.C. 102.9-5];
- Transfer hearing authority from the Election Board to the Judiciary [1 O.C. 102.9-8];
- Update the process for conducting a caucus [1 O.C. 102.13-1, 102.13-2];
- Require notice of the election and election results to be posted on the Nation’s website [1 O.C. 102.14-1, 102.17-2];
- Shorten the voter registration form [1 O.C. 102.15-1];
- Eliminate provisional ballots for voters who do not show a photo ID or are ruled ineligible to vote [1 O.C. 102.15-5];
- Require a public test of the ballot machines prior to an election [1 O.C. 102.16-1];

- Clarify the process for voters who require assistance at the polls [*1 O.C. 102.16-4*];
- Require the separation of ballots from different polling locations [*1 O.C. 102.16-9(a)*];
- Update the process for handling spoiled ballots [*1 O.C. 102.16-10*];
- Reduce the number of Election Board members required to be at each polling site [*1 O.C. 102.16-12(a)*];
- Update the process for conducting a recount [*1 O.C. 102.18*];
- Clarify and update additional language throughout the Law.

Additional minor changes are made to the draft to update the language and ensure compliance with drafting style and formatting requirements.

In accordance with the LPA, a public meeting on the proposed amendments to the Election law was held on November 8, 2018. Four (4) members of the community attended the public meeting with one (1) person providing oral comments. The public comment period closed on November 16, 2018. The Legislative Operating Committee received two (2) submissions of written comments during the public comment period. All comments public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on November 16, 2018. Any changes made based on those comments have been incorporated into this draft.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: GTC	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To update the Nation's election process to require the Election Board to ensure election polling equipment and ballots are secured and locked; to clarify when a member of the Election Board must recuse themselves from election activities; to remove term limits for members of the Election Board; to clarify the process for submitting referendum questions; to shorten the timeframe for holding an election; to eliminate provisional ballots for voters who do not show a photo ID or are ruled ineligible to vote; to clarify candidate eligibility in regard to positions on the Oneida Business Committee and Judiciary; to transfer hearing authority from the Election Board to the Judiciary; to update the process for conducting a caucus; to require notice of election and election results to be posted on the Nation's website; to shorten the voter registration form; to require a public test of the ballot machines prior to an election; to require separation of ballots between each polling place; to update the process for handling spoiled ballots; to reduce the number of Election Board members required to be at each polling site; to update the process for conducting a recount; and to clarify and update language throughout the law.		
Purpose	The purpose of the Election Law is to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations <i>[see 102.1-1]</i> .		
Affected Entities	All qualified voters of the Oneida Nation; all elected officials of the Nation; all candidates for elected office; Election Board; Trust Enrollment Department; Oneida Police Department; Oneida Records Management Department; Zoning Department; the Nation's Secretary; and the Business Committee Support Office.		
Affected Legislation	Election Law; Zoning and Shoreland Protection Law; Open Records and Open Meetings Law; Boards, Committees and Commissions Law; Garnishment Law; Per Capita Law.		
Enforcement/Due Process	Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election <i>[see 102.19-1]</i> . Candidates deemed ineligible for the ballot by Election Board may appeal to the Judiciary <i>[see 102.9-8]</i> . Election Board members who violate the Election Law may be subject to removal in accordance with the Removal Law, termination of appointment if appointed to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation <i>[see 102.4-12]</i> . A member who is removed from the Election Board shall be ineligible to serve on the Election Board for three (3) years from the time he or she is removed from the Election Board <i>[see 102.4-12(a)(1)]</i> .		
Public Meeting	A public meeting was held on November 8 th , 2018.		
Fiscal Impact	See fiscal impact statement prepared by Finance Dept. in accordance with the Legislative Procedures Act.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Election Law was adopted by General Tribal Council (GTC) in accordance with Article III, Section 5 of the Constitution. The Election law governs the procedures for the conduct of orderly elections of the Nation. The Election Law was most recently amended by GTC on April 23, 2017 to incorporate Constitutional Amendments into the law, including lowering the age of qualified voters from twenty-one (21) to eighteen (18).
- B. On November 12, 2017, GTC passed a motion to “accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the General Tribal Council during calendar year 2018.” The meeting materials and discussion from this meeting included concerns regarding Election Board, recount process, recusal process and security of ballots and ballot machines. In addition to the discussion from this meeting, other potential revisions to the law have been identified by the Election Board, Trust Enrollment Department, and a review of relevant Judiciary decisions.
- C. As a result of this review, the following amendments to this law have been proposed by the Legislative Operating Committee (LOC). The amendments will update the Nation’s election process to require the Election Board to ensure election polling equipment and ballots are secured and locked; clarify when a member of the Election Board must recuse themselves from election activities, remove term limits for members of the Election Board; clarify the process for submitting referendum questions; shorten the timeframe for holding an election; eliminate provisional ballots for voters who do not show a photo ID or are ruled ineligible to vote; clarify candidate eligibility in regard to positions on the Oneida Business Committee and Judiciary; transfer hearing authority from Election Board to the Judiciary; update the process for conducting a caucus; require notice of election and election results to be posted on the Nation’s website; shorten the voter registration form; require a public test of the ballot machines prior to an election; to require separation of ballots between each polling place; update the process for handling spoiled ballots; to reduce the number of Election Board members required to be at each polling site; to update the process for conducting a recount; and clarify and update language throughout the law.

SECTION 3. CONSULTATION AND OUTREACH

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

SECTION 4. PROCESS

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

- March 23, 2018: LOC Work Meeting
- March 29, 2018: LOC Work Meeting
- April 2, 2018: LOC Work Meeting
- April 19, 2018: LOC Work Meeting
- May 2, 2018: LOC Work Meeting
- June 20, 2018: LOC Work Meeting
- July 12, 2018: LOC Work Meeting
- August 6, 2018: LOC Work Meeting
- August 28, 2018: LOC Work Meeting
- September 5, 2018: LOC Work Meeting
- October 8, 2018: LOC Work Meeting
- October 17, 2018: LOC Work Meeting
- November 16, 2018: LOC Work Meeting

SECTION 5. CONTENTS OF THE LEGISLATION

A. **Election Board.** This section describes the composition and duties of the Election Board. The Election Board consists of nine (9) members elected by the membership. The Election Board is responsible for conducting the elections of the Oneida Nation. The following revisions have been made to the Election Board:

- **Term Limits.** This law eliminates term limits for members of the Election Board. Election Board members are elected by the membership. Currently, Election Board members are limited to two consecutive three-year terms. After serving two terms, Board members must sit out a term before they can run again [*see Election Law, 1 O.C. 102.4-2*]. Now, Election Board members may run for as many terms as they wish.
- **Comparison to other Oneida Boards, Committees and Commissions.** Most other entities of the Nation do not have term limits. For example, other elected entities such as Land Commission, Land Claims Commission, Gaming Commission and Trust Enrollment Committee do not have term limits. Currently, the only other elected board of the Nation with term limits is Oneida Nation Commission on Aging (ONCOA). The Police Commission, an appointed board, has term limit of no more than three consecutive five-year terms.
- **Comparison to Election Boards of other tribal nations:** Menominee Nation, Potawatomi Nation, Ho Chunk Nation and Stockbridge Munsee have appointed Election Boards which do not have term limits. However, the appointing body has control over who is appointed and for how long.
- **Advantages and Disadvantages of Term Limits:** Potential advantages of term limits are that they may bring new ideas and fresh perspectives to an elected body and give more individuals an opportunity to participate in public service. Potential disadvantages of term limits are that they deprive voters of the ability to elect the candidate of their choice and that the elected body loses experienced members and institutional knowledge.
- **Recusal.** Election Board members must recuse themselves from any pre-election, election day and post-election activities if he or she is a petitioner, applicant or candidate in any election, or if there is otherwise a conflict of interest [*see 102.4-3*].
- **Immediate Family:** A new provision has been added clarifying that Election Board members must recuse themselves if an immediate family member is a petitioner, applicant or candidate. This requirement was previously located in the Election Board's bylaws, but has been added directly into the law to strengthen and clarify this requirement [*see 102.4-3(b)*].
- **Definition of Immediate Family Members.** An immediate family member is defined as: an individual's father, mother, grandparent, sister, brother, wife, husband, daughter, son,

father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-brother, step-daughter, step-son and any of these relations obtained through legal adoption [see 102.3(m)].

- **Recusal for Judiciary.** Recusal provisions for members of the Nation’s Judiciary are located in the Oneida Tribal Judiciary Canons of Judicial Conduct. The canons state that a judge shall withdraw from any matter where the judge has or could be perceived to have a conflict of interest. The canons go on to state that this includes personal, professional, or fiduciary relationships between the Judge or an immediate family member of the Judge [see Oneida Tribal Judiciary Canons of Judicial Conduct 8 O.C. 802, Section 2.2].
 - **Securing Ballots and Voting Equipment.** A new provision has been added that requires the Election Board to ensure that election polling equipment and ballots are maintained in a locked and secured area when they are not being used for an Election. This is added to clarify that it is Election Board’s responsibility to secure the equipment, and that failure to do so is a violation of this law [see 102.4-8(a)].
 - **Standard Operating Procedures.** The Election Board will be required to develop and follow standard operating procedures (SOPs) regarding election activities and responsibilities. Any updates to their standard operating procedures must be presented to the Business Committee as information. For more information regarding the Election Board’s current SOPs, see Section 9 “Other Considerations” in this analysis. [see 102.4-8(b)].
 - **Enforcement and Removal.** A new provision has been added regarding Enforcement, which replaces the previous “Removal” section [see 102.4-12]. Election Board members who violate the Election Law may be subject to:
 - **Removal:** Election Board members who violate the Election Law may be removed in accordance with the Removal Law. A member who is removed from the Election Board will be prohibited from serving on the Election Board for three (3) years.
 - **Termination of Appointed Members.** Election Board members who were appointed to fill vacancies on the board may have their appointments terminated by the Oneida Business Committee in accordance with the Boards, Committees and Commissions Law.
 - **Sanctions and Penalties.** Election Board members may be subject to sanctions and penalties in accordance with laws of the Nation regarding sanctions and penalties. The Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties Law to increase accountability among elected and appointed officials of the Nation, which will include members of the Election Board. At the time this analysis was drafted, the LOC intends to present a Sanctions and Penalties Law to GTC for consideration once the draft is complete and all legislative requirements are met.
- B. Referendums.** This section describes the process for referendums. Referendum questions may be submitted by qualified voters at a caucus prior to an election. The following revisions have been made to the referendum process to ensure a streamlined process: [see 102.7]
- **Standard Form.** A provision has been added requiring the Secretary to provide a standard form to submit referendum questions.
 - **Yes or No Questions.** In addition, referendum questions must be written in the form of a “yes or no” question. The intent is to ensure that the questions are written clearly for the voter to answer.
- C. Candidate Eligibility.** This section describes the requirements to be a candidate. The following revisions have been made to this section [see 102.9]:
- **Applications.** This provision clarifies that all candidates, including those nominated at caucus, must fill out and turn in a completed application packet. Packets will be available in the BC Support Office. In addition, the Election Board’s current practice is to provide application packets at the caucus for those that have been nominated. The purpose of requiring the

application form is to ensure that candidates meet the eligibility requirements for the office they are seeking [see 102.9-4].

- **Proof of Minimum Eligibility Requirements.** Applicants will now be required to attach proof that they meet the requirements for the position they are running for. The Election Board must include a list of the required documents on the application so that applicants are aware of what they need to submit. If an applicant does not submit the required documentation or does not completely fill out the application form, they will be disqualified by the Election Board [see 102.9-4(e)]. If an applicant feels they were unfairly disqualified, they can appeal to the Judiciary.
 - *Example:* An example of required documentation is proof of residency for positions that require members to reside in Brown or Outagamie County or copies of degrees and transcripts for positions that require a degree.
- **Applying for More than One BC or Judiciary Position.** Under the current law, applicants cannot run for more than one Business Committee or Judicial position. For example, an applicant cannot file to run for both BC Chairperson and Councilperson in the same election. However, the current law doesn't state how the Election Board should handle this situation when it occurs. This has led to cases in the Oneida Judiciary, where the Judiciary noted: "the statute is silent as to whether a person has the opportunity to cure any defects and, if so, how much time is afforded to cure such defects. Furthermore, the statute says nothing about disqualifying a candidate from the election entirely who runs for more than one elective office" [see *Metoxen v. Election Board* 17-AV-007]. Therefore, the following new provisions have been added [see 102.9-5]:
 - **Include Restriction in Application Packet & Announce at Caucus.** The restriction on running for multiple BC or Judicial offices will be included in the application packet and read aloud at the caucus, to ensure that all potential candidates are aware before applying [see 102.9-5(a)].
 - **Process If an Applicant Applies For More Than One BC or Judiciary Position:** If an individual applies to run for more than one BC or Judiciary office, the Election Board will only accept the first application that the individual submitted. Any additional applications from that individual for other BC or Judicial offices will be rejected. The BC Support Office will be required to timestamp all applications in the order they are received, and the time stamp will be used to determine which application the individual filed first.
 - Currently, the Election Board reports that they attempt to contact the applicant to determine which office they want to run for. However, the Election Board has not always been able to reach applicants in time for the deadline. The purpose of this new process is to provide clear guidelines to applicants, the Election Board, and the Judiciary. It places responsibility on applicants to follow the law while ensuring that applicants are not disqualified from the ballot entirely.
- **Transfer of Hearing Authority to Judiciary.** This law removes the Election Board's hearing body authority and transfers it to the Judiciary. In the current law, when an applicant is found ineligible to be on the ballot by the Election Board, they can appeal that decision to a hearing body made up of four (4) members of the Election Board. Instead, applicants will now appeal directly to the Judiciary on an accelerated schedule [see 102.9-8].

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

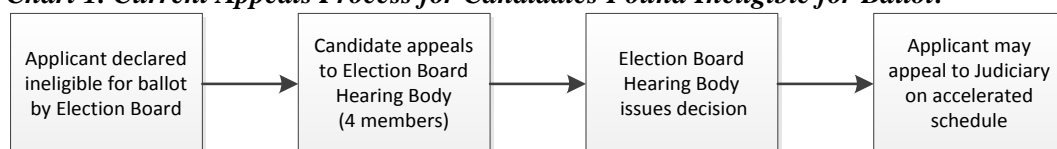
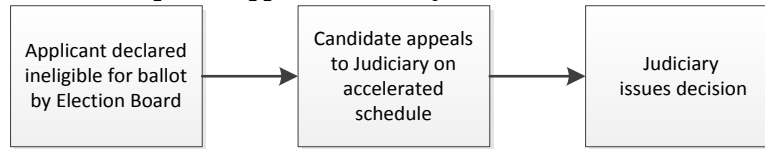


Chart 2. Proposed Appeals Process for Candidates Found Ineligible for Ballot:



- *Transfer of Hearing Body Authority.* GTC established a Judiciary through the adoption of the Judiciary Law by GTC on January 7, 2013 and the approval of Article V to the Nation's Constitution in 2015. Since that time, several boards, committees and commissions have transferred their hearing authority to the Judiciary, including Environmental Resource Board (ERB) and Land Commission. The intent of transferring the Election Board's hearing authority is to continue consolidating administrative and judicial hearing responsibilities in the Judiciary to increase consistency in the hearing process.

D. Restrictions on Campaigning and Campaign Signs. This section describes the restrictions on campaigning, campaign signs and campaign finance. The following revisions have been made to this section [see 102.11].

- **No Campaigning in Nation-Owned Buildings.** A new provision has been added stating that individuals cannot campaign in a building owned and operated by the Nation, with the following exceptions:
 - Private property, such as a residential house or apartment, a private business, or land not owned by the tribe.
 - Official election events sanctioned by the Election Board, including candidate forums and debates. For example, an official candidate forum held at the Radisson.
 - A room or space rented by an individual to hold an event.
- **Existing Campaign Restrictions.** The current law already restricts employees from campaigning during work hours. The current law also restricts candidates from campaigning within 280 feet of the voting area during an election.
- **Process for Fines.** Under the current law, the Election Board may issue fines for violating campaign finance or campaign sign restrictions. This law clarifies that any campaign fines must be paid to the Election Board within (90) ninety days after the fine is issued. The Election Board may seek to collect fines through garnishment and per capita process if not paid in 90 days. Fines will be placed into the Nation's general fund [see 102.10-4 and 102.11-4]
- **Types of Campaign Fines:** In addition to fines for campaign finance violations and campaign sign violations, the Election Board may now impose fines for violating restrictions on campaigning within two hundred eighty (280) feet of the voting area during an election and violating the new restriction on campaigning in buildings owned and operated by the Nation [see 102.11-4].
- **Removal of Campaign Signs.** A provision has been revised clarifying that the Zoning Administrator is responsible for removing any campaign signs that are not in compliance with the Election Law or Zoning and Shoreland Protection Law [see 102.11-5].

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

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

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

- **Caucus Timeline.** In the current law, the caucus must be held at least ninety (90) days prior to the general election. Instead, the caucus will now be held at least seventy-five (75) days prior to the general election [see 102.13-1(a)].
- **Primary Election Timeline.** In the current law, the primary election must be held on a Saturday at least sixty (60) days prior to the general election. Instead, the primary election will now be held on a Saturday at least thirty (30) days prior to the general election [see 102.8-1].
 - Note that these deadlines refer to “at least,” or the minimum number of days prior to an election. This means that Election Board may schedule the caucus or primary election more than seventy-five (75) or thirty (30) days before the election.
- **Effect.** The effect of these changes will potentially:
 - increase the length of time from the caucus to primary election from at least 30 days to at least 45 days;
 - shorten the length of time from the primary election to the general election from at least 60 days to at least 30 days;
 - shorten the length of the entire election season from the caucus to the general election from at least 90 days to at least 75 days;

Chart 3. Current Election Timeline:

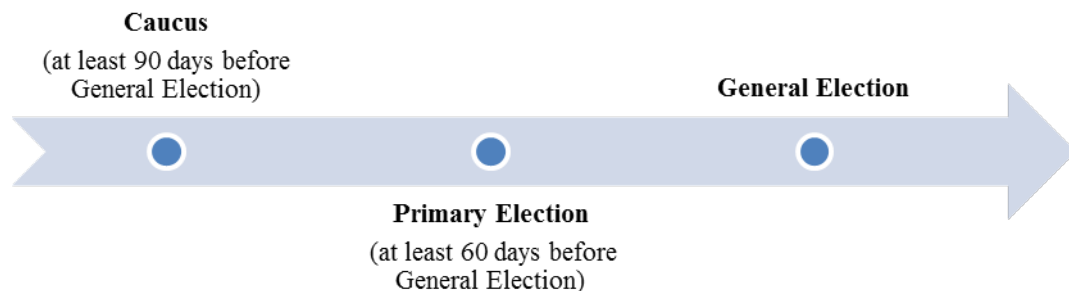
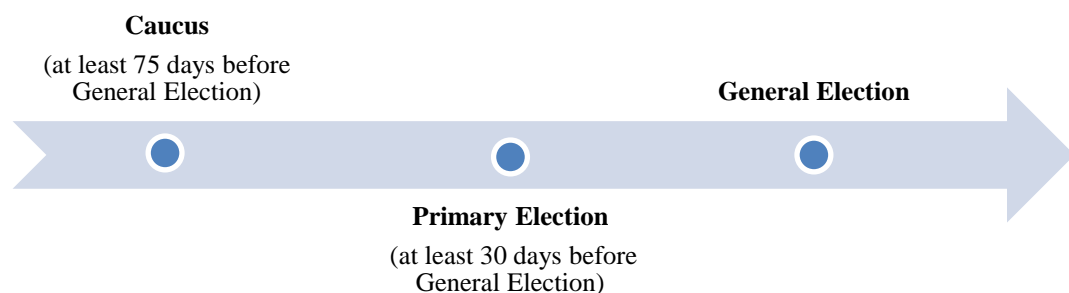


Chart 4. Proposed Election Timeline:



G. Caucus Procedure. The section describes the caucus process for selection of candidates.

- **Nominating Candidates by Motion.** More detail has been added to the law to reflect the current caucus process. The law clarifies that each position will be opened and closed for nomination by motion during the caucus: [see 102.13-2]
 - **Example:** A motion will be made to open nominations for the BC Chairperson position. Once all nominations have been made for BC Chairperson, nominations will be closed for

- 276 that position. Then, a motion will be made to open nominations for BC Vice Chair position,
277 and so on. The intent of this provision is to ensure an orderly caucus.
- 278 ○ If a candidate is not present at the caucus, or arrives late and misses the position they
279 wanted to be nominated for, they can still petition to be on the ballot. A petition to be on
280 the ballot requires only 10 signatures.
- 281 ■ *Nominating Yourself.* A new provision has been added clarifying that an individual cannot
282 nominate themselves at the caucus. They must be nominated by someone else. [see 102.13-
283 2(b)(1)].
- 284 **H. Posting Election Notices & Tentative Results on the Nation's Website.** A provision has been added
285 requiring election notices and tentative election results to be posted on the Nation's website, in
286 addition to being posted to the prominent locations.
- 287 ■ **The prominent locations include:** the polling places, the Norbert Hill Center, the Oneida
288 Community Library, the Oneida Community Health Center, the Southeastern Oneida Tribal
289 Services (SEOTS) building, and all fuel stations operated by the Nation. The prominent
290 locations have been revised to remove Tsunhehkwa Retail store, which is now called Oneida
291 Market and is located within an Oneida One Stop [see 102.3-2(t)].
- 292 ■ **Require Notices to be posted to Website.** Election notices must be posted in the prominent
293 locations and the Nation's "official media outlets," which includes both the Nation's website
294 and the Nation's newspaper [see 102.14 and BC Resolution 03-22-17-B]. Tentative Election
295 results must be posted to the prominent locations and the Nation's website [see 102.17-2]. The
296 purpose of requiring results to be posted on the website is to ensure that tribal members and
297 candidates receive election results quickly and conveniently.
- 298 **I. Mailing Election Notices.** The current law requires election notices to be mailed to all members of
299 the Nation. This provision has been changed to require election notices to be mailed only to members
300 of the Nation who are eligible to vote in the election. This means that the notice will be mailed to
301 enrolled tribal members age 18 years or older at the time of the election [see 102.14-3].
- 302 **J. Shortened Voter Registration Form at Polling Site.** When voters sign-in at the polls on election
303 day, they must fill out a voter registration form. This form has been shortened to only require name,
304 date of birth and enrollment number. The requirement that voters write down their maiden name and
305 current address has been removed. The intent of shortening this form is to speed up the line for
306 voters on Election Day. The Election Board reports that name, date of birth and enrollment number
307 are enough information to identify voters [see 102.15-1].
- 308 **K. Elimination of Provisional Ballots for Voters Ruled Ineligible.** Voters who are ruled ineligible to
309 vote at the polls by election officials will no longer have the right to cast a ballot or challenge the
310 decision of the election officials. An example of why a voter would be deemed ineligible to vote is
311 failure to show a photo ID [see 102.15-5].
- 312 ■ **Current Process.** Currently, if a voter is deemed ineligible, they are still allowed to cast a
313 ballot. However, the ballot is placed in a sealed envelope and signed by two Election Board
314 members. The voter is then required to submit an appeal to the Election Board within two (2)
315 business days in order to challenge the Election Board's decision. The Election Board then
316 has five (5) business days to issue a final decision on the voter's eligibility. The Election Board
317 will only count the ballot if the board determines the individual was, in fact, eligible to vote.
- 318 **L. Public Test of Ballot Machines.** A new provision has been adding requiring a public test of the
319 ballot machines prior to each election. The Election Board will conduct this test no more than ten
320 (10) days prior to election day, and the public test will be noticed in the Nation's newspaper and
321 website. The test will be performed by running a group of pre-audited marked ballots through the
322 machine to ensure that the machine records the correct, predetermined number. The intent of the
323 public test is to increase voter confidence in the voting equipment [see 102.16-1].
- 324 ■ **Public Tests of Ballot Machines in Wisconsin.** The public test is modeled after public tests
325 held by Wisconsin municipalities to test their own ballot machines under section 5.84(1) of

Wisconsin Statutes. Examples of area municipalities that hold public tests of ballot machines include the City of De Pere, City of Green Bay, and Village of Ashwaubenon.

- M. Voter Assistance.** The Election Law has been clarified to state that a voter with a disability or other impairment can request assistance from a member of the Election Board or any other qualified voter of their choosing. A qualified voter is an enrolled member of the Oneida Nation aged 18 or older. For example, a voter can request assistance from a family member or friend, as long as that person is a qualified voter. The purpose of this revision is to clarify that voters may be assisted by any qualified voter of their choosing, whether they are a member of the Election Board or not [see 102.16-4].
- **Qualified Voters Only.** The intent of limiting assistance to qualified voters is to restrict the voting area to qualified voters only, consistent with 102.16-8 of this law, which states that this restriction is in the interest of maintaining security of the ballots and the voting process
- N. Separation of Milwaukee and Oneida Ballots.** A provision has been added to the law requiring ballots from each polling site to be kept separate. There are currently two polling sites, one in Oneida and one in Milwaukee. During the 2017 general election, the ballots from the manual count in Milwaukee were combined with the machine count in Oneida. During recounts, it was no longer possible to determine if a ballot came from the Milwaukee or Oneida count. By keeping the ballots separate throughout the election process, it will be easier to determine if there were irregularities at one of the polling sites [see 102.16-9(a)].
- O. Spoiled Ballots Procedure.** The process for spoiled ballots has been revised. Spoiled ballots will now be placed in a locked, sealed container marked “spoiled ballots.” Previously, spoiled ballots were placed in a marked envelope. In addition, the voter will now be required to witness their spoiled ballot being placed into the container. The purpose of these provisions is to increase voter confidence and to ensure that spoiled ballots are handled properly [see 102.16-10].
- P. Reducing Number of Election Board Members Required at the Polls.** The minimum number of Election Board members required to be present at each polling site on Election day to sign the election totals has been reduced from six (6) members to four (4) members. With the new ballot machines, the Election Board reports that they are able to open and close the polls more efficiently, requiring fewer members to be present. The Election Board also reports that lowering the number of Board members required at each polling place may reduce the need for alternates. The Election Board suggests this may produce a cost savings [see 102.16-12].
- Q. Recount Process.** Several revisions have been made to the recount process:
- **Extension of Deadline for Recount Requests.** A provision has been added regarding deadlines for a candidate to request a recount. Currently, candidates have five (5) business days after an election to request a recount. If a recount reverses the result of an election, the candidate who lost as a result of the recount will now have one (1) additional business day to request their own recount. This ensures that a candidate impacted by a recount will still have the opportunity to request their own recount [see 102.18-2(a)].
 - **Require Election Board to Complete Recounts within Two (2) Business Days.** Upon receiving a recount request from the Nation’s Secretary, the Election Board will now have two (2) business days to complete a recount instead of five (5) days. The purpose of shortening the deadline is to get recount results out sooner, especially if the recount changes the result of the election and the losing candidate wishes to request their own recount [see 102.18-4].
 - **Recounts Conducted by Hand and by Machine.** Currently, there is a discrepancy in the Election Law regarding whether the Election Board must conduct recounts by hand or by machine. A change has been made that will now require the Election Board to both hand count and machine count the ballots during a recount. The intent of this change is to increase voter confidence in the process and ensure an accurate count [see 102.18-7].
 - **Posting Recount Results.** The Election Board will now be required to post the tentative recount results just like any other election results. The results will be posted in the prominent

- locations and the Nation's official media outlets within 24 hours of the recount [see 102.18-9]. The intent of this change is to increase transparency of the recount process.
- R. **Minor Drafting Changes.** Minor drafting changes have been made throughout the law, such as changing "judge" to "Election judge" for clarity.

SECTION 6. EFFECT ON EXISTING LEGISLATION

- A. **References to Other Laws.** The following laws of the Nation are referenced in this law. This law does not conflict with any of the referenced laws.
- **Open Records and Open Meetings Law.** Among the duties of the Election Board Secretary is to keep a record of Election Board meetings and make them available to the Nation's Secretary, other Election Board members, and the public as required by the Open Records and Open Meetings Law [see 102.4-9(c)].
 - **Boards, Committees and Commissions Law.** Stipend rates for Election Board members will be set in accordance with the Boards, Committees and Commissions Law. At the time this analysis was drafted, Election Board members receive \$100 per meeting and \$10 per hour to conduct elections [see 102.4-10].
 - **Personnel Policies and Procedures.** Employees of the Nation are not allowed to campaign during work hours. Employees that violate this provision will be subject to disciplinary action in accordance with the Nation's Personnel Policies and Procedures [see 102.11-1(c)].
 - **Zoning and Shoreline Protection Law.** The Zoning Administrator shall remove any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreline Protection Law [see 102.11-3].
 - **Garnishment Law and Per Capita Law.** If a fine issued by the Election Board is not paid by the deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process [see 102.10-4(b)].

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

- A. **Elimination of Provisional Voting.** This law eliminates an existing right to challenge the decision of election officials if a voter is deemed ineligible to vote on election day. An example of why a person would be deemed ineligible to vote is failure to show a Photo ID.
- **Current Process:** Under current law, if a voter is deemed ineligible to vote on election day, he or she may still fill out a ballot. This ballot is sealed in a numbered envelope and initialed by two Election Board members. The voter then has two (2) business days to mail a written appeal to Election Board. The Election Board will issue a final decision, and will only count the ballot if it is determined that the voter was, in fact, an eligible voter.
 - **Proposed Process:** Under this proposed law, if a voter is deemed ineligible to vote on election day, they cannot fill out a ballot and cannot challenge the decision of the Election officials.
 - **Provisional Voting in State of Wisconsin.** The Wisconsin Election Commission reports that for state elections, voters can receive a provisional ballot if they are unable or unwilling to provide proof of identification. Provisional ballots are not counted unless the voter provides the required information to the municipal clerk by 4:00 pm of the Friday following the election.
 - **Provisional Voting in Other Tribes.** There are examples of other tribes that allow versions of provisional ballots:
 - **Ho Chunk Nation:** If the eligibility of a voter is questioned, the ballot of that voter will be enclosed in an envelope which will be endorsed with the voter's name, the reason for the challenge, and any refutation of the challenge. The Election Board will make the final determination of the eligibility of the voter and will count the votes of those determined eligible to vote [see *Ho Chunk Election Code 13(j)*].
 - **Forest County Potawatomi:** If the eligibility of a voter is questioned by the Election Board, the ballot of that voter shall be enclosed in an envelope which shall be endorsed with his

or her name and the reason for the challenge. Challenges shall be made only on the basis of eligibility for voting membership in the Tribe as specified in Article VI, Section 5 of the Constitution of the Forest County Potawatomi Community. The eligibility of all challenged ballots must be determined by a majority of the Election Board before tallying any votes. If the voter is determined to be eligible that envelope will be opened and the ballot placed in the ballot box [see *Forest County Potawatomi Election Code 2.8*].

- **Conclusion:** The LOC should be aware that removing provisional voting eliminates an existing right of voters of the Nation. Whether to allow provisional voting is a policy decision.

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. *Challenging an Election.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election [see 102.19-1].
- B. *Challenging Election Board Decision Regarding Candidate Eligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant [see 102.9-8].
- C. *Enforcement and Removal.* Election Board members who violate the Election Law may be subject to removal in accordance with the Removal Law, termination of appointment if appointed to fill a vacancy, or sanctions and penalties in accordance with laws of the Nation [see 102.4-12].
- D. *Final Report.* The Election Board is required to forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed. The Final Report must include the following information: Total number of persons voting; total votes cast for each candidate by subsection of the ballot; list of any ties and final results of those ties, including the method of resolution; list of candidates elected and position elected to; number of spoiled ballots; and cost of the election, including compensation paid to each Election Board member [see 102.19-2].

SECTION 9. OTHER CONSIDERATIONS

- A. *New Ballot Machines.* The Election Board reports that they have purchased two (2) new DS200 ballot machines. The Election Board reports that these machines include a regular maintenance schedule. For more information regarding these machines, contact the Election Board.
- B. *Election Board Standard Operating Procedures (SOPs).* The Business Committee Support Office has worked with the Election Board to place their Standard Operating Procedures (SOPs) on the Nation's website, so that all members have access to the processes by which an election is conducted. The Election Board's SOPs include detailed instructions regarding ballots, the ballot box, testing ballot machines, conducting elections, breaking a tie, conducting recounts and other-election related topics. The SOPs may be viewed by selecting "Oneida Election Board" at www.oneida-nsn.gov/government/boards-committees-and-commissions/elected/
 - **What is an SOP?** SOPs are the detailed, step-by-step instructions for how an entity implements a law or policy. The intent of an SOP is to ensure consistency in the process. Unlike laws, Election Board SOPs are developed by the Election Board.
- C. *Sanctions and Penalties Law.* The Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties Law to increase accountability among elected and appointed officials of the Nation, which will include members of the Election Board. Currently, the only remedy for elected officials is the Removal Law. However, there may be instances of misconduct that do not rise to the level of removal. In these cases, other sanctions such as verbal warnings, written warnings, suspension or fines may be more appropriate. This new law will create a formal complaint process and allow for corrective actions against officials who violate laws, bylaws and SOPs of the Nation. At the time this analysis was drafted, the LOC intends to present a Sanctions and Penalties Law to GTC for consideration once the draft is complete and all legislative requirements are met.
- D. *Update Resolution Setting Fines for Election Violation.* This law states that the Business Committee

will pass a resolution specifying fines for violations of campaign finance restrictions [see 102.10-2(a)]. The Business Committee passed a resolution setting fines for certain campaign violations in 2014 [see BC-01-22-14-A]. However, this resolution does not include fines for campaign finance violations or for the new restrictions on campaigning within buildings owned and operated by the Nation. In addition, references to specific sections of the law within the resolution may become out of date upon adoption of these amendments.

- *Recommendation:* The Business Committee should consider amending resolution BC-01-22-14-A to update references to this law and to specify fines for campaign finance violations and campaigning within buildings owned and operated by the Nation.

E. New Forms or Procedures:

- *Updated Application:* The Election Board will be required to update the application form to include:
 - A list of required documents that applicants must submit to meet minimum eligibility requirements.
 - A statement that applicants cannot apply to run for more than one Business Committee or Judiciary position.
- *Updated Election Board SOPs:* The Election Board will need to update their SOPs to comply with all amendments to this law.
- *New Referendum Form:* The Nation's Secretary will be required to provide a standard referendum form at the caucus.

F. Fiscal Impact. Please refer to the fiscal impact statement for any fiscal impacts.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [see *Legislative Procedures Act 1 O.C. 109.6-1*].
- A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating Committee and may be prepared by any agency who may receive funding if the legislation is enacted; who may administer a program if the legislation is enacted; who may have financial information concerning the subject matter of the legislation; or by the Finance Office, upon request of the Legislative Operating Committee [see *Legislative Procedures Act 1 O.C. 109.6-1(a) and (b)*].

Title 1. Government and Finances - Chapter 102 ELECTION

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

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

102.1. Purpose and Policy	<u>102.12. Candidate Withdrawal from the Election</u>
102.2. Adoption, Amendment, Repeal	<u>102.13. Selection of Candidates</u>
102.3. Definitions	102.7 <u>14</u> . Notice of Polling Places
102.4. Election Board	102.8 <u>15</u> . Registration of Voters
102.5. <u>General Election</u> Candidate Eligibility	102.9 <u>16</u> . Election Process
102.6. <u>Special Election</u>	102.10. Tabulating and Securing Ballots
102.7. <u>Referendums</u>	17. 102.11 . Election Outcome <u>Outcomes</u> and Ties
102.8. <u>Primary Elections for Oneida Business Committee Positions</u>	102.12. Elections 18. <u>Recount Procedures</u>
102.9. <u>Candidate Eligibility</u>	102.19. <u>Challenges</u> 102.13. Oneida Nation Constitution and By-law
102.10. <u>Campaign Financing</u>	<u>Declaration of Results</u>
102.11. <u>Campaign Signs and Campaigning</u>	102.20. <u>Constitutional</u> Amendments

102.1. Purpose and Policy

102.1-1. Purpose. It is the policy purpose of ~~the Nation that~~ this law ~~shall~~to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. ~~This law defines the~~ Policy. 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. ~~It~~This law is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

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

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. ~~Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.~~

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Alternate" shall mean an individual appointed by the Oneida Business Committee to serve on the Election Board during an election and until election results have been certified.

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

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approved for acceptance on a ballot.

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

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

~~102.3-6.~~(f) “Candidate” shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

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

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

~~102.3-9.~~(h) “Conflict of ~~Interest~~ interest” shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

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

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

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

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

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

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

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

~~102.3-14.~~(o) “Lot drawing” shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

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

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

~~102.3-17.~~(q) “Official media outlets” means the Oneida Nation’s website and the

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Kalihwisaks newspaper as identified by the Oneida Business Committee through resolution BC-03-22-17-B.

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

~~102.3-18.(s)~~ “Private property” shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

~~102.3-19.(t)~~ “Prominent locations” shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, ~~Tsyunhehkwa Retail Store,~~ the Oneida Community Health Center, the South Eastern Oneida Tribal Services (SEOTS) building, and all ~~One-Stop locations~~fuel stations operated by the Nation.

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

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

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

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

102.4. Election Board

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

~~102.4-1.~~ An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the ~~Oneida Nation~~ Constitution.

102.4-2. Composition. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, ~~not to exceed two (2) consecutive terms.~~

102.4-3. Recusal. An Election Board member shall recuse himself ~~/or~~ herself from participating as an Election Board member in any pre-election, election day, or post-election activities ~~while he or she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest when:~~

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

(b) a petitioner, applicant, or candidate in any election is an immediate family~~102.4-4. Removal. Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.~~

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

(c) there is otherwise a conflict of interest.

102.4-4. Vacancies. Any vacancy in an unexpired term shall be filled by appointment by the Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

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

~~102.4-76~~ Election Board Alternates. The Oneida Business Committee may appoint ~~or reappoint~~

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a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist ~~with~~during an election ~~day~~ and ~~pre-until~~ election ~~activities~~results have been certified.

102.4-87. The Election Board shall choose a Chairperson from amongst themselves as set out in the ~~By-laws~~bylaws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and a Secretary.

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

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

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

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

(1) The Election Board shall present updated and/or new standard operating procedures to the Oneida Business Committee who shall then accept the standard operating procedures as information only.

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

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

(~~be~~) Upon completion of an election, the Election Board shall make a final report on the election results ~~as set out in this law~~.

~~Section C. 102.4-9. Specific Duties of Officers and Election Board Members~~

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

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

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

(2) oversee the conduct of the election; shall

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

(4) post and report election results.

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

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

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

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Chairperson as directed in conducting the election. ~~Clerks cannot be currently employed by the Trust Enrollment Department.~~

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

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

(f) ~~Election Judges:—Shall.~~ 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. ~~The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.~~

Section D. Compensation Rates

~~102.4-11.~~ 102.4-10. Stipend Rates. Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Oneida Business Committee. ~~The Election Board shall have a budget, approved through the Nation's budgeting process.~~

~~102.4-12.~~ 11. Compensation of other Election Personnel. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets when performing official duties during an election in accordance with this law.

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

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

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

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

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

102.5. General Elections

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

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

102.6. Special Elections

102.6-1. Initiation of Special Elections. A special election may be initiated by a request or

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directive of the General Tribal Council or the Oneida Business Committee.

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

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

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

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

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

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

102.7. Referendums

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

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

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

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

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

102.8. Primary Elections for Oneida Business Committee Positions

102.8-1. There shall be a primary election for an Oneida Business Committee position whenever there are three (3) or more candidates for any officer position or sixteen (16) or more candidates for the at-large council member positions.

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

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

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

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

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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.

102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

~~Section A. Requirements~~

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

102.5-2. Minimum Eligibility Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;
- (b) be a qualified voter on the day of the election; and
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.5-3. Conflict of Interest. No applicant ~~may~~shall have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.5-4. Applications ~~and petitions where the~~for Candidacy. An applicant interested in being considered as a candidate for a position that was ~~not~~ nominated ~~during~~at a caucus or will be petitioning for candidacy shall ~~be filed by presenting the information~~submit an application for candidacy to the Nation's Secretary, ~~or designated agent, or the Business Committee Support Office.~~

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

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

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

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(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.

(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.

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

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

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

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

102.9-6. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Election Board's designated agent designee.

Section B 102.9-7. Eligibility Review

~~102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.~~

~~102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:~~

~~(a) Position for which they were considered;~~

~~(b) ~~Qualification~~Qualifications of the position and ~~citation~~reference to the source of the source. ~~(qualification requirements. Copies of source may be attached);~~~~

~~(c) A brief summary explaining why the applicant was found to be ineligible; and~~

~~(d) That the applicant has two (2) business days from notification to ~~make an appeal.~~ Appeals must be filed at the location designatedrequest a hearing on the notice by hand delivery. The location designatedineligibility determination with the Judiciary.~~

102.9-8. Request for a Hearing on Ineligibility. An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the

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Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide a request for a hearing on ineligibility within two (2) business days after the request is filed. Any appeal to the appellate body of the Judiciary shall be ~~on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted~~ filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

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

~~102.5-8.~~ **Contributions:**

- ~~(a) Solicitation of Contributions by Candidates.~~
- ~~(10-1) Candidates.~~ A candidate shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. ~~Candidates may~~
- ~~102.10-2.~~ A candidate shall not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
- ~~(2) Candidates~~ ~~102.10-3.~~ A candidate shall not solicit or accept contributions in any office ~~or~~ business ~~and/or~~ facility of the Nation.
- ~~(b) Fines. Violation~~ ~~102.10-4.~~ *Violations of Campaign Financing Restrictions.* A violation of the ~~contribution~~ campaign financing restrictions shall result in a fine ~~imposed by the~~.
- ~~(a) The~~ Election Board shall impose the fine in an amount specified in a resolution adopted by the ~~Oneida~~ Business Committee.
- ~~(b) Fines shall be paid to the Election Board within ninety (90) days after the fine is issued. If the fine is not paid by this deadline, the Election Board may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.~~
- ~~(c) Money received from fines shall be deposited into the General Fund.~~

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

~~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 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) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours.~~ ~~(a)~~
 - ~~(1) Enforcement.~~ The Nation's employees shall be subject to disciplinary action under the Nation's laws and policies governing employment for political campaigning during work hours.
- ~~102.11-2.~~ *Placement of Campaign Signs.* Placement of campaign signs shall be pursuant to the following restrictions:

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

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

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

~~(b) Removal of campaign signs. 102.11-3. All campaign signs shall be removed within five (5) business days after an election.~~

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

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

~~(e) Fines. Violation of the 102.11-4. Violations of Campaign Restrictions. A violation of a restriction on campaigning, or~~ campaign sign restrictions shall result in a fine ~~imposed by the~~.

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

Section D. Candidate Withdrawal

~~102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.~~

~~102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.~~

~~102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.~~

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

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

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

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

~~102.12-1. A candidate may withdraw from the election at any time. A candidate~~ withdrawing by any method listed ~~herein~~ within this section shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

~~102.12-2. Withdrawal Prior to Submission of the Ballot. A candidate may withdraw his or her~~

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name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted in writing by the candidate to any Election Board member, excluding alternates.

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

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

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

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

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

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

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

102.12-6.

2.6. Selection of Candidates

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

102.13. Selection of Candidates

102.13-1. Setting of a Caucus

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

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

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

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

~~102.6-2.~~ 102.13-2. Caucus Procedures. The procedures for ~~the~~ a caucus shall be as follows:

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

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

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

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

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(c) ~~A candidate~~ present at the caucus ~~will~~shall accept ~~or~~ decline ~~their~~his or her nomination at the caucus. ~~Candidates~~A candidate nominated at the caucus, but not present at the caucus to accept the nomination, shall be required to follow the petition process.

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

(1) Oneida Business Committee Chairperson~~;~~;

(2) Oneida Business Committee Vice-Chairperson~~;~~;

(3) Oneida Business Committee Treasurer~~;~~;

(4) Oneida Business Committee Secretary~~;~~;

(5) Oneida Business Committee Council Member~~;~~; and

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

Section B102.13-3. Petition

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

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

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

(b) A 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 ~~endorsee's~~qualified voter's:

(1) printed name and address;

(2) date of birth;

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

(4) signature.

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

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

(~~f~~e) The Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

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

~~102.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.~~

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102.714. Notice of Polling Places

102.714-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses and/or facilities.

102.714-2. PollingNotice of the election and polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

102.714-3. Except for a Special Electionspecial election, notice for the election shall be mailed to all members of the Nation members 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.~~

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

102.815. Registration of Voters

~~Section A. Requirements~~

102.815-1. ~~Voter~~ Registration ~~of Voters~~. All enrolled members of the Nation, who are eighteen (18) years of age or over, are qualified. Qualified voters of such shall physically register on the day of the election(s) as defined in Article III, Section ~~at the polls by signing his or her name on an official Voter Registration Form containing the following information:~~

(a) name;

(b) date of birth; and

(c) enrollment number.

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

~~Section B. Identification of Voters~~

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

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

(b) Drivers LicenseDriver's license; or

(c) Other I.D. withidentification card that contains a name and photophotograph.

~~Section C. Registration Procedures~~

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

102.8-4.102.15-3. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. ConductThe conduct of Trust Enrollment Department personnel is governed by the Election OfficialsBoard members during the voting period.

102.8-5. ~~Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:~~

~~(a) name and maiden name (if any);~~

~~(b) current address;~~

~~(c) date of birth; and~~

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~~(d) enrollment number.~~

~~Section D. Qualification~~ 15-4. Verification of Voter Eligibility

~~102.8-6.~~ Should a question or dispute arise as to the eligibility of ~~a voter~~ an individual being qualified to vote, ~~the Judges of the Election Officials appointed by the~~ an Election Board ~~Chairperson~~ member serving as an Election Judge shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned, and shall make such decisions from the facts available, whether the applicant is, in fact, qualified ~~and~~ and verifiable under ~~the Oneida Nation Constitution~~, Article III Section 2, of the Constitution to vote in the Nation's elections.

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

102.16. Election Process

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

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

(b) All ballot machines shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall tested during the public test, no matter what polling location the ballot machines will ultimately be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials used for.

(c) The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee conduct the test by processing a pre-audited group of marked ballots to ensure the machine properly records the predetermined number of votes on the test ballots.

~~102.9~~ 16-2. Election Process

~~Section A. Polling Places and Times~~

~~102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special~~ Location. Elections shall be ~~set in accordance with 102.12-6.~~

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

~~102.9~~ 16-3. Polling Time. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

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

102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results are posted.

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

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

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

~~102.9~~ 16-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

~~Section B~~ 102.16-9. Ballot Box

~~102.9-9.~~ All ballots ~~being votes~~ used to vote, shall be placed in a receptacle clearly marked "Ballot Box" ~~and,~~ except for those ballots spoiled or rejected. The ballot box shall be locked until counting at the close of polls. ~~Provided that, with~~ With electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

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

102.16-10. Spoiled Ballots

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

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

~~102.9-12.~~ (b) The Spoiled Ballot ~~envelopes~~ locked sealed containers shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

~~Section D~~ 102.16-11. Rejected Ballots

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

(a) Computer rejected ballots shall be reviewed by the Election ~~Officials~~ Board members to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in ~~sections~~ section 102.9 ~~16-10 through 102.9-12~~ 16-10 governing spoiled ballots.

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

~~102.10. Tabulating and Securing Ballots~~

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

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

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

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

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

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

~~102.10-4(a)~~ If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election ~~Officials~~Board members for counting ~~and~~ tallying of ballots.

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

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

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

~~102.10-7~~. The Election Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Election Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Oneida Police Department for retention. The Oneida Police Officer shall then deliver the sealed container to the Records Management Department for ~~retaining~~retention on the next business day.

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

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

~~102.11-1~~. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

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

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

~~Section B~~Tie

~~102.11-3~~. Tie. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of

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the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

~~102.11-4. For~~ 17-4. *Ties of an Oneida Business Committee Position.* For Oneida Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount.

102.17-5. *Ties of Other Elected Positions.* For all ~~other~~elected positions other than the Oneida Business Committee, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

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

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

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

~~Section 102.18.~~ **Recount Procedures**

~~102.11-5.18-1. *Eligibility for a Recount.*~~ A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater.

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

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

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

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

~~102.11-6.18-4.~~ The Election Board shall ~~respond by~~conduct the ~~close of requested recount within two (2) business~~ on the fifth (5th) day after receiving the request ~~regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.~~from the Nation's Secretary.

~~102.11-7. All~~ (a) The Election Board shall not honor a recount request where there have

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been two (2) recounts ~~shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless~~ completed as a result of the original type:

(1) a request for a recount of ~~counting process. Manual recounts may, at the discretion of the Election Officials, be of the total~~ the whole election results; or of the challenged

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

~~102.11-8. The~~ 18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

~~102.11-9~~ 18-6. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the ~~original Election Officials.~~ 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.

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

102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

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

102.19. Challenges and Declaration of Results

~~102.11-11~~ 19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that

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the outcome of the election would have been different but for the violation.

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

~~102.11-12~~19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting-;

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

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

(d) List of candidates elected and position elected to-;

(e) Number of spoiled ballots-; and

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

~~102.11-13~~19-3. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

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

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

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

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

~~102.11-16~~19-6. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

~~102.12. Elections~~20. Constitutional Amendments

~~Section A. Primary Elections; Business Committee~~

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

~~102.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.~~

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

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

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

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~~102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.~~

~~102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.~~

Section B. Special Elections

~~102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.~~

~~102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.~~

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

~~102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.~~

Section C. ~~Referendums~~

~~102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.~~

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

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

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

Section D. Initiation of Special Elections

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

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

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

~~102.13. Oneida Nation Constitution and By-law Amendments~~

~~102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida~~

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~~Nation~~ Constitution ~~and By laws~~ may be initiated by the Oneida Business Committee or a petition of qualified voters.

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

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

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

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

(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 that all individuals who provided a signature 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.

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

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

~~102.13-320-5.~~ The Election Board shall publish any proposed amendments to the Constitution by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass

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mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place ~~and~~, at administrative offices of the Nation, and shall also be published in ~~the~~ official ~~Oneida~~ media outlets, ~~which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.~~

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

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

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

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-707-6-98-A

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

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Amended – GTC- - - -

Title 1. Government and Finances - Chapter 102

ELECTION

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

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

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

102.1. Purpose and Policy

102.1-1. *Purpose.* It is the purpose of this law to govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

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

102.2. Adoption, Amendment, Repeal

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

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

102.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

102.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

102.3. Definitions

102.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

(b) "Alternate" shall mean an individual appointed by the Oneida Business Committee to serve on the Election Board during an election and until election results have been certified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) “Nation” means the Oneida Nation.

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

(r) “Oneida Police Officer” shall mean an individual employed as a police officer with the Oneida Police Department.

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

(t) “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.

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

(v) “Rejected ballots” shall mean those ballots which are rejected by the vote tabulating

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81 machine.

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

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

86
87 **102.4. Election Board**

88 102.4-1. *Establishment.* An Election Board is hereby created for the purpose of carrying out the
89 provisions of this law and Article III, Sections 2 and 3 of the Constitution.

90 102.4-2. *Composition.* The Election Board shall consist of nine (9) elected members. All members
91 shall be elected to terms of three (3) years.

92 102.4-3. *Recusal.* An Election Board member shall recuse himself or herself from participating as
93 an Election Board member in any pre-election, election day, or post-election activities when:

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

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

97 (c) there is otherwise a conflict of interest.

98 102.4-4. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the
99 Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may
100 be timed to correspond with the pre-election activities and the needs of the Election Board.

101 102.4-5. The Election Board shall identify members who shall serve as tellers, Election Judges
102 and clerks in advance of an election.

103 102.4-6 *Election Board Alternates.* The Oneida Business Committee may appoint a sufficient
104 number of alternates to the Election Board, as recommended by the Election Board, to assist during
105 an election and until election results have been certified.

106 102.4-7. The Election Board shall choose a Chairperson from amongst themselves as set out in
107 the bylaws of the Election Board, to preside over the meetings. This selection shall be carried out
108 at the first meeting of the Election Board following an election. The Chairperson shall then ask
109 the Election Board to select a Vice-Chairperson and a Secretary.

110 102.4-8. *Duties of the Election Board.* The Election Board shall have the following duties, along
111 with other responsibilities listed throughout this law:

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

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

116 (1) The Election Board shall present updated and/or new standard operating
117 procedures to the Oneida Business Committee who shall then accept the standard
118 operating procedures as information only.

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

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

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

123 102.4-9. *Specific Duties of Officers and Election Board Members.* All Election Board members
124 shall be required to attend all Election Board meetings. Additional specific duties of the
125 Chairperson and other Election Board members include the following:

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

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

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

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

(d) *Clerks*. The clerks shall implement the requirements of identifying and registering all voters and determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election.

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

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

(f) *Election Judges*. Election Judges shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Election Judge(s) shall assist the Chairperson in making a determination.

102.4-10. *Stipend Rates*. Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Oneida Business Committee.

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

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

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

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

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

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

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171 **102.5. General Elections**

172 102.5-1. In accordance with Article III, Section 5 of the Constitution, general elections shall be
173 held in the month of July on a date set by the General Tribal Council.

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

176
177 **102.6. Special Elections**

178 102.6-1. *Initiation of Special Elections.* A special election may be initiated by a request or
179 directive of the General Tribal Council or the Oneida Business Committee.

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

182 102.6-2. Matters subject to a special election include, but are not limited to, referendum questions,
183 vacancies, and/or petitions. Matters subject to a special election may be placed on the ballot of a
184 general election.

185 102.6-3. A special election shall follow the processes and procedures established for all other
186 elections.

187 102.6-4. The date of a special elections shall be set by the Oneida Business Committee as
188 recommended by the Election Board, or as ordered by the Judiciary in connection with an election
189 challenge.

190 102.6-5. *Notice of Special Elections.* Notice of a special election shall be posted by the Election
191 Board in the prominent locations, and placed in the Nation's official media outlets not less than
192 ten (10) calendar days prior to the special election.

193 102.6-6. *Emergency Cancellation of Special Elections.* In the event of an emergency, the Election
194 Board may reschedule the special election, provided that no less than twenty-four (24) hour notice
195 of the rescheduled special election date is given to the voters, by posting notices in the prominent
196 locations.

197
198 **102.7. Referendums**

199 102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a
200 general or special election for the purpose of soliciting an opinion from the voters of that election
201 on any issue directly affecting the Nation or its general membership.

202 102.7-2. The Nation's Secretary shall develop and make available in the Business Committee
203 Support Office a standard referendum form.

204 102.7-3. A referendum question shall be written in a manner that solicits a "yes" or "no" response.

205 102.7-4. The referendum form shall be presented to the Nation's Secretary at the caucus prior to
206 an election. Once received at a caucus, the referendum question shall be placed on the ballot of the
207 next election.

208 102.7-5. The results of a referendum question in which a majority of the qualified voters who cast
209 votes shall be binding on the Oneida Business Committee to present the issue for action and/or
210 decision at General Tribal Council.

211
212 **102.8. Primary Elections for Oneida Business Committee Positions**

213 102.8-1. There shall be a primary election for an Oneida Business Committee position whenever
214 there are three (3) or more candidates for any officer position or sixteen (16) or more candidates
215 for the at-large council member positions.

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

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

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

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

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

102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to print a notice in the Nation's official media outlets if time lines allow.

102.9. Candidate Eligibility

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

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

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

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

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

(1) or more of the following:

(1) a valid Wisconsin driver's license;

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

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

102.9-3. *Conflict of Interest.* No applicant shall have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an application for candidacy to the Nation's Secretary or the Business Committee Support Office.

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

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(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.

(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.

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

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

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

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

102.9-6. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Election Board's designee.

102.9-7. *Eligibility Review.* The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

(a) Position for which they were considered;

(b) Qualifications of the position and reference to the source of the qualification requirements. Copies of source may be attached;

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

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

102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a nominated or petitioned for position shall have two (2) business days to request a hearing with the Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide a request for a hearing on ineligibility within two (2) business days after the request is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

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102.10. Campaign Financing

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

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

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

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

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

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

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

102.11. Campaign Signs and Campaigning

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

(a) No campaigning of any type shall be conducted within two hundred 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 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) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours.

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

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

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

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

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

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

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102.11-4. *Violations of Campaign Restrictions.* A violation of a restriction on campaigning, or campaign sign restrictions shall result in a fine.

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

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

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

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

102.12. Candidate Withdrawal from the Election

102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by any method listed within this section shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

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

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

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

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

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

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

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

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

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

102.13. Selection of Candidates

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

(a) The caucus for the general election shall be held at least seventy-five (75) calendar

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days prior to the election date.

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

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

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

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

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

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

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

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

(d) Nominations shall consist of the following positions:

(1) Oneida Business Committee Chairperson;

(2) Oneida Business Committee Vice-Chairperson;

(3) Oneida Business Committee Treasurer;

(4) Oneida Business Committee Secretary;

(5) Oneida Business Committee Council Member; and

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

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 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.

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

102.14. Notice of Polling Places

102.14-1. The Election Board shall post a notice of the election in the prominent locations and on the official media outlets, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses and/or facilities.

102.14-2. Notice of the election and polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

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

102.15. Registration of Voters

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

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

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

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

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

102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility of an individual being qualified to vote, an Election Board member serving as an Election Judge shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned, and shall make such decisions from the facts available, whether the applicant is, in fact qualified and verifiable under Article III Section 2 of the Constitution to vote in the Nation's elections.

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

102.16. Election Process

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

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(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.

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

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

102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Election Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

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

102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results are posted.

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

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

102.16-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

102.16-9. *Ballot Box.* All ballots used to vote, shall be placed in a receptacle clearly marked "Ballot Box," except for those ballots spoiled or rejected. The ballot box shall be locked until counting at the close of polls. With 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.

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

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

(b) The Spoiled Ballot locked sealed containers shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

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

(a) Computer rejected ballots shall be reviewed by the Election Board members to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in section 102.16-10 governing spoiled ballots.

(b) Ballots rejected, either during the computer process or during a manual counting, shall

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be reviewed by the Election Board members to verify that they are authentic. If the Election Board members determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated “void” and placed in a sealed container marked “Void Ballots.”

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

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

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

(a) If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Board members for counting and tallying of ballots.

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

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

102.16-14. *Securing Ballots.* The Election Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Election Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Oneida Police 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.

102.17. Election Outcome and Ties

102.17-1. *Election Results Announcement.* The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement: "The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

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

102.17-3. *Tie* . In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.17-4. *Ties of an Oneida Business Committee Position.* For Oneida Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if

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there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount.

102.17-5. *Ties of Other Elected Positions.* For all elected positions other than the Oneida Business Committee, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

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

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

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

102.18. Recount Procedures

102.18-1. *Eligibility for a Recount.* A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater.

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

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

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

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

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

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

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

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

102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

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

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(3) of the 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.

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

102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

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

102.19. Challenges and Declaration of Results

102.19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

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

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

102.19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting;

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

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

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

(e) Number of spoiled ballots; and

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

102.19-3. *Declaration of Results.* The Business Committee shall declare the official results of the

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election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried position effective prior to taking an Oneida Business Committee oath of office

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

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

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

102.19-6. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

102.20. Constitutional Amendments

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

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

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

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

(b) Upon the request of a petition form, 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 Trust Enrollment Department 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.

(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

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where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification that all individuals who provided a signature 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.

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

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

102.20-5. The Election Board shall publish any proposed amendments to the Constitution by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place, at administrative offices of the Nation, and shall also be published in the official media outlets.

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

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

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

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-07-6-98-A

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

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Amended – GTC-__-__-__-

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

DATE: December 3, 2018

TO: Larry Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

FROM: Rae Skenandore, Financial/Management Analyst

RE: **Fiscal Impact of the Amendments to the Election Law**

I. Estimated Fiscal Impact Summary

Law: Amendments to the Election Law	Draft 2
Implementing Agency	Election Board and Judiciary
Estimated time to comply	2020 Elections
Estimated Impact	Current Fiscal Year
Total Estimated Fiscal Impact	\$2,550 - \$2,985

II. Background

Legislative History

The Election Ordinance was approved by the Oneida Business Committee on April 16, 1984 and adopted by the General Tribal Council on April 30th, 1984 (GTC 4-30-84-B). The law was amended by BC 6-12-91-A, by GTC in 1993, GTC 07-06-98-A, GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A. A public meeting was held on November 8th, 2018.

Summary of Content

A summary of the amendments is as follows;

- Term limits are eliminated
- A recusal requirement has been moved from the bylaws to the law. Election Board members must recuse themselves if an immediate family member is a petitioner, applicant or candidate. A definition of an immediate family member is added. The Judiciary recusal requirement was removed as it is located in the Judiciary Canons.
- A new provision was added to ensure secure ballots and voting equipment.
- Elected election board members may be removed per the removal law.
- Appointed members may be terminated by the Oneida Business Committee.

- Sanctions and penalties may apply per Tribal Law.
- Referendum questions and process are clarified, including the use of a standardized form and formatting a question as a yes or no question.
- Candidate eligibility requirements have been revised to require complete application packets be turned in, proof of eligibility requirements, and the process to be used if an individual applies for more than one Oneida Business Committee or Judiciary position.
- All hearing authority has been transferred to the Oneida Nation Judiciary.
- Exceptions were added to the requirement of “No Campaigning in Nation-Owned Buildings”. Private property, rented space or officially sanctioned events.
- Timelines have been shortened from 90 to 75 days.
- Election notifications must be sent to all eligible voters.
- A noticed public test of the voting machines will be required.
- Any qualified voter may provide voter assistance
- Polling site ballots must be maintained separately and securely.
- Board members required at polling sites has been reduced from 6 to 4.
- Several revisions have been made to the recount process.
 - If a recount reverses the results, the candidate will have one additional business to request another recount.
 - Recount timelines have been reduced from five days to two days.
 - Recounts must be done both by hand and machine.
 - Recount results must be posted within 24 hours.

III. Methodology and Assumptions

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the petition after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the Law or amendments.

The analysis was completed based on the information provided as of the date of this memo.

IV. Executive Summary of Findings

According to the Election Board, areas that will require additional costs are an increase in stipend costs due to additional responsibilities, supplies, documentation, and printing costs. The Election Board anticipates that they will be able to implement the amendments in 2020.

V. Financial Impact

The total financial impact of implementing the amendments is a range estimated at approximately \$2,550 - \$2,985.

VI. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.

Election Law Amendments

Presentation to GTC by:
Legislative Operating Committee

January 21, 2019

Background

- At 11/12/2017 Special GTC Meeting, motion by Dylan Benton to “accept the information presented and for the Oneida Business Committee to take this information and the discussion to identify amendments to the Election Law for presentation to and action by the GTC During calendar year 2018.”
- At 10/28/18 Special GTC Meeting, motion by Diane Quella to “adjourn and forward the remaining items... Update regarding Election Law amendments, to the 2019 Annual meeting in January.”

Development

- Research
- Work Meetings
- Public Outreach



Proposed Amendments

- Require the Election Board to ensure election polling equipment and ballots are maintained in a locked and secured area when not in use for an election
- Clarify when a member of the Election Board must recuse themselves from election activities
- Remove term limits for members of the Election Board

Proposed Amendments

- Clarify the process for submitting referendum questions
- Shorten the timeframe for holding an election
- Clarify candidate eligibility in regard to positions on the Oneida Business Committee and Judiciary

Proposed Amendments

- Transfer hearing authority from the Election Board to the Judiciary
- Update the process for conducting a caucus
- Require notice of the election and election results to be posted on the Nation's website
- Shorten the voter registration form

Proposed Amendments

- Eliminate provisional ballots for voters who do not show a photo ID or are ruled ineligible to vote
- Require a public test of the ballot machines prior to an election
- Clarify the process for voters who require assistance at the polls
- Require the separation of ballots from different polling locations

Proposed Amendments

- Update the process for handling spoiled ballots
- Reduce the number of Election Board members required to be at each polling site
- Update the process for conducting a recount
- Clarify and update additional language throughout the Law.

Additional Updates

- Election Board New Ballot Machines
- Election Board Standard Operating Procedures (SOPs) posted to Nation's website
- Sanctions and Penalties Law



Requested Action

- Motion to adopt the Election Law Amendments Resolution

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Legislative Operating Committee
December 5, 2018

Sanctions and Penalties Law

Submission Date: 9/6/17	Public Meeting: 10/4/18
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a

Summary: *This item was carried over from the previous term. The original proposal was to develop a consistent process that would provide for members of the Oneida Business Committee and other Boards, Committees and Commissions to face sanctions for misconduct. Currently, the only penalty that OBC members may be subject to, is removal from office – meaning that less serious misconduct would either go unpunished or would result in a penalty that might be considered too extreme for a particular violation.*

9/6/17 LOC: Motion by Ernest Stevens III to add Sanctions and Penalties Law to the active files list with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

9/6/17: *Work Meeting.* Present: David P. Jordan, Jenny Webster Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner. Drafting attorney provided an update on the status of the Sanctions and Penalties law. Next steps will be: 1) pull the current draft back, 2) hold community meetings to understand what sanctions/penalties the community is interested in, 3) meeting with the boards/committees/commissions for input, and 4) holding work meeting with LOC to make policy decisions and choose next steps.

11/1/17 LOC: Motion by Kirby Metoxen to approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

11/1/17: *Work Meeting.* Present: Carol Silva, Bonnie Pigman, Ed Delgado, Rachel Hill, Matthew Denny, Reynold Danforth, Kirby Metoxen, Rosa Laster, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jennifer Falck. Representatives from all the B/C/C's were invited to this meeting to provide input on what a Sanctions & Penalties Law might look like.

12/6/17: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Clorissa Santiago, Jennifer Falck. The LOC reviewed and considered comments from the November 1, 2017, work meeting with boards, committees, and commissions. LOC began making policy decisions. Drafter will work on draft, and policy options, and bring materials back to LOC when ready.

3/9/18: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Laura Laitinen-Warren. LOC reviewed the first draft of the law, and directed that the LRO schedule a community meeting, with a special invitation to members of boards, committees, and commissions, to discuss the proposed law.

- 3/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. The LOC reviewed the potential date for the community meeting, and directed the drafting attorney to schedule the community meeting for May 3, 2018, and to ensure the notice is published in the Kalihwisaks twice, an appointment is sent to all members of the LOC and boards, committees, and commissions, and that the Communications Department is included in the appointment so they can make efforts to communicate notice of the event.
- 4/2/18 LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a community meeting/potluck be held on May 3, 2018; seconded by Daniel Guzman King. Motion carried unanimously.
- 4/26/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. This was an LRO prep meeting to prepare a plan for the upcoming community meeting.
- 4/27/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber, Tani Thurner. The purpose of this work meeting was to prepare for the upcoming community meeting.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster. The LOC continued to prepare and discuss the upcoming community meeting.
- 5/3/18:** *Community Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Maureen Perkins, Carol Silva, Chad Wilson, Janice McLester, Gina Buenrostro, Winnifred Thomas, Brooke Doxtator, Ed Delgado, Oyanolu Adams, Michelle Braaten, Mark Powless, Cathy L. Metoxen, Carole Liggins, Madelyn Genskow. The purpose of this community meeting was to gain input on the proposed Sanctions and Penalties law.
- 5/11/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Daniel Guzman, Clorissa Santiago, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to review the comments received during the community meeting, and to determine if any revisions should be made to the law. The drafting attorney will update the draft of the law based on this discussion.
- 5/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the revisions to the draft made based on comments collected from the community meeting. Drafting attorney will update the draft.
- 6/6/18/ LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a legislative analysis be completed; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator. The purpose of this work meeting was to review the BCSO's involvement in the Sanctions and Penalties law to ensure their role can be implemented as required by law.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the legislative analysis for the Sanctions and Penalties Law and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.
- 8/1/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was to review and consider the legislative analysis.

8/15/18 LOC: Motion by Jennifer Webster to approve the public meeting packet and forward the Sanctions and Penalties Law to a public meeting to be held on September 20, 2018; seconded by Kirby Metoxen. Motion carried unanimously.

Subsequent Motion by Jennifer Webster to forward the Sanctions & Penalties Law to the Finance Office for a fiscal analysis to be completed; seconded by Kirby Metoxen. Motion carried unanimously.

9/10/18: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker, Cathy Bachhuber, Maureen Perkins. The purpose of this work meeting was to discuss the fact that the September 20, 2018 public meeting on the proposed law will have to be canceled due to the Kalihwisaks failing to publish the public meeting notice in the September 6, 2018, edition. The LOC determined the next steps for moving the public meeting forward – an e-poll of an updated public meeting notice will be completed and the appointment that was sent out changed to reflect the new date.

E-poll conducted.

9/19/18 LOC: Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.

10/4/18: Public Meeting Held.

10/17/18 LOC: Motion by Jennifer Webster to accept the public meeting memo comments and public meeting comment review memorandum and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.

10/17/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Rosa Laster. The purpose of this work meeting was for the LOC to begin reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary.

10/25/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was for the LOC to continue reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary. LRO will update the draft for the next LOC packet so a fiscal analysis can be requested.

11/7/18 LOC: Motion by Jennifer Webster to accept the public comment review memorandum and the updated draft; seconded by Daniel Guzman King. Motion carried unanimously.

11/30/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and approve the fiscal impact statement request memorandum to the Finance Department, and begin discussing a plan for the completion of this item.

Next Steps:

- Accept the updated legislative analysis.
- Approve the fiscal impact statement memorandum and forward to the Finance Department directing that a fiscal impact statement of the proposed Sanctions and Penalties law be prepared for inclusion on the January 2, 2019, Legislative Operating Committee meeting agenda.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Lawrence E. Barton, Chief Financial Officer
Ralinda R. Ninham-Lamberies, Assistant Chief Financial Officer
Rae M. Skenandore, Financial Management Analyst
FROM: David P. Jordan, Legislative Operating Committee Chairman
DATE: December 5, 2018
RE: Sanctions and Penalties Law Fiscal Impact Statement

The Legislative Procedures Act requires that a fiscal impact statement, which provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation, be provided for all proposed legislation of the Nation.

The Legislative Procedures Act provides that the fiscal impact statement be submitted by all agencies as directed by the Legislative Operating Committee. In accordance with the Legislative Procedures Act the Legislative Operating Committee is requesting that the Finance Office provide a fiscal impact statement for the proposed Sanctions and Penalties law for inclusion on the January 2, 2018, Legislative Operating Committee meeting agenda.

The final draft of the proposed Sanctions and Penalties law has been attached to this memorandum for your convenience. Your cooperation with this request is greatly appreciated.

Requested Action

Provide a fiscal impact statement of the proposed Sanctions and Penalties law for inclusion on the January 2, 2018, Legislative Operating Committee meeting agenda.

Title 1. Government and Finances - Chapter 120

SANCTIONS AND PENALTIES

120.1. Purpose and Policy	120.7. Complaint Alleged Against an Elected Official
120.2. Adoption, Amendment, Repeal	120.8. Sanctions and Penalties
120.3. Definitions	120.9. Effect of Resignation by an Official
120.4. Misconduct.	120.10. Record of Conduct in Office
120.5. Filing of a Complaint	
120.6. Complaint Alleged Against an Appointed Official	

120.1. Purpose and Policy

120.1-1. *Purpose.* The purpose of this law is to establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties.

(a) This law does not apply to judges of the Oneida Nation Judiciary.

(b) This law does not apply to corporate entities of the Nation.

120.1-2. *Policy.* It is the policy of the Nation to ensure that elected and appointed officials who commit misconduct while in office be subject to appropriate sanctions and penalties; and to ensure that there is a fair process in place that enables officials to fairly respond to allegations of misconduct.

120.1-3. It is the intent of the Nation that all elected and appointed officials strive to exhibit and uphold the Nation's core values of The Good Mind as expressed by Onayote'a'ka, which includes:

(a) Kahletsyalúsla. The heart felt encouragement of the best in each of us.

(b) Kanolukhwásla. Compassion, caring, identity, and joy of being.

(c) Ka'nikuhli'yó. The openness of the good spirit and mind.

(d) Ka'tshatstásla. The strength of belief and vision as a People.

(e) Kalihwi'yó. The use of the good words about ourselves, our Nation, and our future.

(f) Twahwahtsílawayá. All of us are family.

(g) Yukwatsístayá. Our fire, our spirit within each one of us.

120.2. Adoption, Amendment, Repeal

120.2-1. This law was adopted by the General Tribal Council by resolution GTC-__-__-__-__.

120.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

120.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

120.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

120.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

120.3. Definitions

120.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Affirmative defense" means a fact or set of facts other than those alleged by the complainant which, if proven by the official, defeats or mitigates the consequences of the official's otherwise unlawful conduct.

- (b) “Answer” means a formal written statement addressing the dispute on the merits and presents any defenses and counterclaims.
- (c) “Business Committee Support Office” means the office that provides administrative support for the Oneida Business Committee and various other governmental operations.
- (d) “Business day” means Monday through Friday 8:00 a.m. – 4:30 p.m., excluding holidays recognized by the Nation.
- (e) “Clear and convincing evidence” means that it is substantially more likely than not that the facts presented are true.
- (f) “Complainant” means an individual who has made a complaint.
- (g) “Constitution” means the Constitution and By-Laws of the Oneida Nation.
- (h) “Court of Appeals” means the Court of Appeals of the Oneida Nation Judiciary.
- (i) “Entity” means a board, committee, commission, office, or other group of the Nation an individual may be appointed or elected to serve a position on, including the Oneida Business Committee.
- (j) “Frivolous” means a complaint without any reasonable basis or merit, that cannot be supported by a good faith argument. Most often frivolous complaints are intended to merely harass, delay, or embarrass the opposition.
- (k) “Misconduct” means wrongful, improper or unlawful conduct or behavior.
- (l) “Nation” means the Oneida Nation.
- (m) “Official” means any person who is elected or appointed to serve a position for the Nation, including, but not limited to, a position on a board, committee, commission, or office of the Nation, including the Oneida Business Committee.
- (n) “Restitution” means compensation to an individual or entity for an injury, damage or loss.
- (o) “Stipend” means the amount paid by the Oneida Nation to individuals serving on boards, committees and commissions of the Nation to offset the expenses of being a member on the board, committee or commission.
- (p) “Substantiate” means to find that the complaint or allegation in the complaint is valid because there is clear and convincing evidence.
- (q) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

120.4. Misconduct

120.4-1. It shall be the obligation of every official to behave in a manner that promotes the highest ethical and moral standard. High moral and ethical standards amongst officials of the Nation is essential to the conduct of government.

120.4-2. An official may be subject to sanctions and penalties for behaving in a manner which constitutes misconduct. Misconduct includes:

- (a) a violation of the Constitution or any of the Nation’s laws, policies, or rules;
- (b) a violation of the bylaws, standard operating procedures or other internal operating documents that govern the entity upon which the official serves;
- (c) a conviction of a felony, or any crime in any jurisdiction that would be classified as a felony under federal law or Wisconsin law; and
- (d) any other activity that is incompatible with the high moral and ethical standards that are expected of the Nation’s officials.

120.5. Filing of a Complaint

120.5-1. *Who May File*. Any individual at least eighteen (18) years of age or older, or entity, who in good faith, has knowledge or reason to believe that an official has committed misconduct, may file a written complaint.

120.5-2. *When to File*. A complaint may be filed as long as the alleged misconduct has occurred, or was discovered to have occurred, within the previous ninety (90) days.

120.5-3. *Contents of the Complaint*. The complaint alleging misconduct by an official shall include the following information:

- (a) The name(s) of the official alleged to have committed the misconduct;
- (b) The entity or entities upon which the official serves;
- (c) The specific date(s), time(s), and location(s) of the alleged misconduct;
- (d) The specific details of the official's misconduct;
- (e) The specific provision of law, policy, rule, or bylaw of the Nation allegedly violated by the official;
- (f) Names of any witnesses of the alleged misconduct, or individuals who may have knowledge pertinent to the alleged misconduct;
- (g) The contact information for the person filing the complaint, which at minimum shall include the person's name, address, and telephone number;
- (h) A notarized sworn statement attesting that the information provided in and with the complaint is true, accurate, and complete to the best of the complainant's knowledge;
- (i) Any supporting documentation; and
- (j) Any other information required by the Nation's Rules of Civil Procedure if the complaint is alleging misconduct of an elected official.

120.5-4. *Where to File*.

(a) *Appointed Official*. Complaints against an appointed official shall be filed with the Business Committee Support Office.

(b) *Elected Official*. Complaints against an elected official shall be filed with the Nation's Trial Court.

120.5-5. *Retaliation Prohibited*. Retaliation against any individual who makes a complaint or party or witness to a complaint is prohibited. This protection shall also be afforded to any person offering testimony or evidence or complying with directives authorized under this law. Retaliation shall include any form of adverse or punitive action by or caused by, any official.

- (a) If an individual alleges that retaliatory action has been threatened or taken based on the individual's complaint, or cooperation with directives authorized under this law, the individual may file a complaint for the retaliatory action in accordance with section 120.5 of this law.

120.5-6. Any official who is the subject of a complaint has the right to be represented by an attorney or advocate, at his or her own expense, for any actions or proceedings related to the complaint.

120.5-7. *Confidentiality*. All complaints alleged against an official of the Nation shall be handled in a confidential manner.

- (a) All hearings and/or proceedings related to a complaint shall be closed to the general public.

- (b) All records of hearings and/or proceedings shall not be subject to public review or inspection. An official's record of conduct shall only be made available for review to the Oneida Business Committee and the Trial Court.

(c) *Exception.* A decision of the Trial Court or the Oneida Business Committee regarding a complaint alleged against an official, and any sanctions and/or penalties that are imposed against an official, shall be public information.

120.6. Complaints Alleged Against an Appointed Official

120.6-1. Due to the fact that an appointed official serves at the discretion of the Oneida Business Committee, all complaints alleged against an appointed official shall be handled by the Oneida Business Committee.

120.6-2. *Receipt of Complaint.* Upon receiving a complaint, the Business Committee Support Office shall:

(a) immediately forward copies of the complaint, including any supporting documentation, to:

(1) all members of the Oneida Business Committee for review; and

(2) the individual who is the subject of the complaint.

(b) place the complaint on the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee for an initial review which shall occur within thirty (30) business days after the initial receipt of a complaint.

120.6-3. *Mediation.* The complainant or the official who is the subject of the complaint shall have up to five (5) business days after the initial receipt of the complaint to contact the Business Committee Support Office and request mediation.

(a) If both the complainant and the official who is the subject of the complaint agree to mediation, then the Business Committee Support Office shall schedule a mediation between the parties. The intent of this mediation meeting is to resolve the complaint prior to commencing an initial review.

(b) The Business Committee Support Office shall utilize a trained mediator to facilitate the mediation meeting. Every mediator shall have at least twenty-five (25) hours of mediation training or at least three (3) years of experience in dispute resolution.

(c) The mediation shall occur before the investigatory hearing is scheduled to take place.

(d) If a resolution is reached during mediation, the Oneida Business Committee shall be informed of the resolution before the initial review and the complaint shall be formally dismissed during the initial review.

(e) If the matter is not resolved through mediation, the initial review shall occur as prescribed by this law.

120.6-4. *Answer to the Complaint.* The individual who is the subject of the complaint shall have ten (10) business days after receiving his or her copy of the complaint, to submit to the Business Committee Support Office a written answer setting forth any admission, denial, affirmative defense, or other relevant information upon which the official intends to rely during proceedings related to the complaint.

(a) The Business Committee Support Office shall immediately forward the answer and any supporting documentation to all members of the Oneida Business Committee upon receipt from the individual who is the subject of the complaint.

120.6-5. *Conflict of Interest.* An Oneida Business Committee member that has a conflict of interest in a complaint brought before the Oneida Business Committee, shall immediately recuse himself or herself and shall not participate in any portion of the complaint process.

(a) Failure of an Oneida Business Committee member to recuse themselves due to a conflict of interest shall constitute grounds for sanctions and/or penalties.

120.6-6. *Initial Review.* The Oneida Business Committee shall perform an initial review of an allegation of misconduct on the part of an official. The purpose of the initial review shall be to determine whether the allegation made within the complaint has merit.

(a) During the initial review the Oneida Business Committee shall review the complaint and the written answer; as well as any supporting documentation.

(b) In order to determine if a complaint has merit, the Oneida Business Committee will discuss if whether assuming the facts alleged are true, said facts would support a determination of misconduct.

(c) The Oneida Business Committee shall determine, by majority vote, whether the complaint has merit.

(1) Upon a finding that the complaint has merit, the Oneida Business Committee shall schedule an investigatory hearing to consider the specific allegations identified in the complaint.

(A) The investigatory hearing shall occur within thirty (30) business days after the initial review has concluded and shall take place during the executive session portion of the agenda of a regular or special meeting of the Oneida Business Committee.

(2) Upon finding that a complaint has no merit, the Oneida Business Committee shall dismiss the complaint. The Oneida Business Committee shall send notice that the complaint was dismissed to the complainant and the official who is the subject of the complaint within five (5) business days.

(A) If the Oneida Business Committee dismisses the complaint based on a determination that the complaint was frivolous, false, or made with a malicious intent, the complainant may be subject to:

(i) a fine not to exceed five hundred dollars (\$500);

(ii) prohibition from filing another complaint for a period of time not to exceed one (1) year; and/or

(iii) a civil suit in the Nation's Trial Court brought by the official accused by the frivolous, false or malicious allegation.

120.6-7. *Notice of the Investigatory Hearing.* The Business Committee Support Office shall provide the complainant, the official who is the subject of the complaint, and any other individual compelled to attend the hearing with written notice of the date and the time of the investigatory hearing at least ten (10) business days before the investigatory hearing.

120.6-8. *Investigatory Hearing.* The purpose of the investigatory hearing is for the Oneida Business Committee to determine if there is enough evidence to substantiate the allegations of misconduct by clear and convincing evidence.

(a) When conducting an investigatory hearing, the Oneida Business Committee shall have the broadest grant of authority to compel any person or organization within the Nation to:

(1) appear at the hearing to provide testimony under oath and/or information relevant to the allegations against the official; and/or

(2) produce physical evidence that is relevant to the allegations. (b) The Oneida Business Committee shall provide an opportunity for the official who is the subject of the complaint to answer all allegations and to provide witness testimony, documents, and other evidence on his or her own behalf.

(c) The Oneida Business Committee shall also provide the complainant the opportunity to answer questions, provide witness testimony or additional information, and/or to otherwise speak on his or her own behalf.

(d) The hearing shall be informal and conducted as the interests of justice so require, and shall be recorded by the Business Committee Support Office.

120.6-9. *Deliberation of the Oneida Business Committee.* At the conclusion of the investigatory hearing, the Oneida Business Committee shall excuse everyone from executive session for the deliberation of the Oneida Business Committee. Prior to making a final determination as to whether to substantiate the complaint, the Oneida Business Committee shall:

(a) consider all evidence and information provided, and shall have a full and complete discussion of all aspects of the complaint and answer; and

(b) have a full and complete discussion of all potential sanctions and penalties that may be imposed, if appropriate.

120.6-10. *Determination by the Oneida Business Committee.* After the investigatory hearing has concluded and the Oneida Business Committee has deliberated, the Oneida Business Committee shall in open session of a regular or special Oneida Business Committee meeting, by majority vote, declare whether the Oneida Business Committee has determined there is enough evidence to substantiate the allegations of misconduct by clear and convincing evidence.

(a) If the Oneida Business Committee finds that there is clear and convincing evidence that the official engaged in misconduct, the Oneida Business Committee shall, by majority vote, determine and impose appropriate sanctions and/or penalties.

(b) If the Oneida Business Committee does not find that there is clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

(c) Within ten (10) business days after the investigatory hearing, the Oneida Business Committee shall issue a written decision and provide copies of the decision to:

(1) the complainant,

(2) the official who is the subject of the complaint, and

(3) the Business Committee Support Office, for recordkeeping.

120.6-11. *Appeal.* The complainant and the official who is the subject of the complaint shall both have the right to appeal the Oneida Business Committee's decision to the Court of Appeals pursuant to the Nation's Rules of Appellate Procedure. The appeal shall be limited to review of the record, and the Oneida Business Committee's decision may only be overturned if the Court of Appeals determines that:

(a) The findings or penalties imposed were clearly erroneous, unsupported by the record, or made on unreasonable grounds or without any proper consideration of circumstances; or

(b) Procedural irregularities occurred which prevented a fair and impartial hearing.

120.7. Complaints Alleged Against an Elected Official

120.7-1. The Trial Court shall have jurisdiction to hear complaints of alleged misconduct of elected officials. Complaints of alleged misconduct shall be filed with the Trial Court pursuant to the Nation's Rules of Civil Procedure.

120.7-2. In a civil action against an elected official for misconduct, the complainant has the burden of proving by clear and convincing evidence that the official engaged in misconduct.

120.7-3. In making a final determination, the Trial Court shall determine if there is enough evidence to substantiate the allegations of misconduct by the official by clear and convincing evidence.

(a) If the Trial Court finds that there is clear and convincing evidence that the official engaged in misconduct, the Trial Court shall determine and impose any sanctions and/or penalties deemed appropriate in accordance with this law.

(b) If the Trial Court does not find that there is clear and convincing evidence to support the allegations that the official engaged in misconduct, the complaint shall be dismissed.

120.7-4. *Appeal*. The complainant and the official who is the subject of the complaint shall both have the right to appeal the Trial Court's decision to the Court of Appeals pursuant to the Nation's Rules of Appellate Procedure. The appeal shall be limited to review of the record, and the Trial Court's decision may only be overturned if the Court of Appeals determines that:

(a) The findings or penalties imposed were clearly erroneous, unsupported by the record, or made on unreasonable grounds or without any proper consideration of circumstances; or

(b) Procedural irregularities occurred which prevented a fair and impartial hearing.

120.7-5. The Trial Court shall provide the Business Committee Support Office a copy of the complaint and the determination of the Trial Court for the official's record of conduct in office.

120.8. Sanctions and Penalties

120.8-1. A sanction or penalty, or any combination of sanctions and/or penalties, may be imposed upon the Nation's officials for misconduct in office, in accordance with this law.

120.8-2. Sanctions and penalties may include:

(a) *Verbal Reprimand*. A verbal reprimand may be imposed on the official.

(1) The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the verbal reprimand. The verbal reprimand shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting.

(2) To impose the verbal reprimand, the presiding Oneida Business Committee Chairperson, or another Oneida Business Committee member if the verbal reprimand is imposed against the presiding Oneida Business Committee Chairperson, shall read a statement that identifies:

(A) The Oneida Business Committee or Trial Court's findings regarding the specific actions or inaction taken by the official that were found to be misconduct;

(B) The reasons why the official's actions or inactions amounted to misconduct;

(C) A statement identifying that the misconduct violates the high standards of behavior expected of the Nation's officials and is not acceptable; and

(D) A direction to the official to refrain from engaging in future misconduct.

(b) *Public Apology*. The official may be ordered to make a public apology. The Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific date, time and location of the public apology. The public apology shall occur at an Oneida Business Committee meeting and/or a General Tribal Council meeting. The public apology shall:

(1) identify the specific misconduct committed by the official;

(2) recognize that the official's actions or inactions were wrong;

(3) identify the effects of the official's misconduct; and

(4) include a clear and unambiguous apology from the official.

(c) *Written Reprimand.* A written reprimand may be imposed on the official by publication on the Nation's official media outlets, as determined by the Oneida Business Committee. The Oneida Business Committee or the Trial Court may publish a written reprimand which includes the information required for the verbal reprimand as stated in section 120.8-2(a)(2)(A)-(D).

(d) *Suspension.* An official may be suspended from performing his or her duties as an official for a period of time not to exceed two (2) meetings, or fifteen (15) business days if the official serves in a full-time capacity.

(1) During a suspension, the official shall not:

(A) attend meetings, trainings or any other event as part of the entity;

(B) attend conferences or other events on behalf of, or as a representative of, the entity;

(C) vote or participate in any activities of the entity;

(D) perform work on behalf of the entity; or

(E) be eligible for any compensation, including regular pay, stipends, or mileage reimbursement.

(2) When an official is suspended, the Oneida Business Committee or Trial Court shall submit written notices to both the official and to the Business Committee Support Office of the specific start and end date of the suspension.

(3) If a suspension is imposed on multiple officials of the same entity at one time, the Oneida Business Committee or the Trial Court shall impose the suspensions of the officials on a staggered basis to avoid an interruption of the official business and function of the entity.

(e) *Restitution.* An official may be ordered to pay restitution, which may include the repayment of any improperly received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the official's misconduct.

(f) *Fines.* An official may be ordered to pay a fine not to exceed two thousand and five hundred dollars (\$2,500).

(1) Fines shall be paid to the Trial Court.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later. Cash shall not be accepted for payment of fines. If the fine is not paid by this deadline, the Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process.

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

(4) Community service may be substituted for part or all of any fine at the minimum wage rate of the Nation for each hour of community service.

(g) *Loss of Stipend.* An official may be ordered to forfeit a stipend for his or her service on an entity not to exceed two (2) meetings.

(h) *Mandatory Participation in Training.* An official may be ordered to participate in and complete a training class or program that will assist the official in addressing and improving his or her behaviors and/or actions.

(1) The mandated training class or program may address a variety of topics including, but not limited to, anger management, sexual harassment, or other sensitivity training.(i)

Termination of Appointment. An appointed official may have his or her appointment terminated by the Oneida Business Committee in accordance with the Nation's laws and/or policies governing boards, committees, and commissions.

(j) *Removal.* The Trial Court may recommend that the process for removing an elected official as contained in the Nation's laws and/or policies governing removal be initiated.

120.8-3. *Factors in Determining an Appropriate Sanction and/or Penalty.* When determining the appropriate sanction or sanctions to impose, the Oneida Business Committee or the Trial Court may consider all factors it deems relevant, including but not limited to:

- (a) the seriousness or severity of the misconduct;
- (b) whether the conduct was intentional or not;
- (c) the likelihood of repetition;
- (d) the extent of probable damage to the finances or reputation of the Nation, the complainant, the entity, or to any other person or organization;
- (e) whether the official or his or her family personally profited, financially or otherwise, from the prohibited conduct;
- (f) the official's remorse, or
- (g) the official's willingness and ability to take steps to mitigate the harm caused by the violation, and
- (h) any prior complaints filed, including any previous sanctions and penalties imposed upon the official while serving on an entity.

120.8-4. The Oneida Business Committee and/or the Trial Court may impose a sanction and/or penalty on a conditional basis, whereas compliance with a specific sanction and/or penalty shall prevent the imposition of a more stringent or burdensome sanction and/or penalty.

120.8-5. The imposition of sanctions and/or penalties in accordance with this law does not exempt an official from individual liability for the underlying misconduct, and does not limit any penalties that may be imposed in accordance with other applicable laws. In addition to any sanctions and penalties that may be imposed in accordance with this law, officials who commit misconduct in office may be subject to other consequences; including but not limited to:

- (a) removal in accordance with the Nation's laws and/or policies governing removal, if an elected official;
- (b) termination of appointment by the Oneida Business Committee, if an appointed official;
- (c) criminal prosecution, for misconduct that also violates applicable criminal law;
- (d) civil liability, in accordance with the applicable law of any jurisdiction; and/or
- (e) penalties for specific misconduct as authorized by any other law of the Nation.

120.8-6. An official who does not comply with a sanction and/or penalty that has been imposed against him or her by either the Oneida Business Committee or Trial Court may be subject to the following:

- (a) additional sanctions and/or penalties that result from a complaint of misconduct filed in accordance with this Law based on the non-compliance;
- (b) termination of appointment by the Oneida Business Committee in accordance with the Nation's laws and policies governing boards, committees, and commissions, if the official was appointed to his or her position; and/or
- (c) removal in accordance with the Nation's laws and policies governing removal, if the official was elected to his or her position.

120.9. Effect of Resignation by an Official

120.9-1. The resignation of an official after a complaint has been filed against the official shall not affect the status of the hearing and determination by either the Oneida Business Committee or Trial Court.

120.9-2. An official who resigns may still be subject to sanctions and/or penalties at the discretion of the Oneida Business Committee or Trial Court.

120.10. Record of Conduct in Office

120.10-1. The Business Committee Support Office shall maintain a record of conduct in office for each official.

120.10-2. The record of conduct in office maintained for each official shall include, at a minimum:

- (a) a copy of each complaint filed against the official;
- (b) recording and/or transcript from any hearings and/or proceedings;
- (c) the outcome of the complaint, and
- (d) any sanctions or penalties imposed upon an official.

120.10-3. The record of conduct in office for each official shall be maintained for a period of no less than seven (7) years.

End.

Adopted – GTC-__-__-__-__



SANCTIONS AND PENALTIES LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Oneida Business Committee	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To increase accountability among elected and appointed officials of the Nation, including members of the Oneida Business Committee. This new law creates a formal complaint process and allows for corrective actions against officials who engage in misconduct.		
Purpose	To establish a consistent set of sanctions and penalties that may be imposed upon elected and appointed officials of the Nation, including members of the Oneida Business Committee, for misconduct in office; and to establish an orderly and fair process for imposing such sanctions and penalties [see <i>Sanctions and Penalties, 1 O.C. 120.1-1</i>].		
Affected Entities	Oneida Business Committee; All elected and appointed officials of the Nation; Any individual who has knowledge that an official has committed misconduct, Judiciary Trial Court, Judiciary Court of Appeals, Business Committee Support Office. This law does not apply to the judges of the Oneida Judiciary, whose misconduct process is located in the Judiciary Law. This law does not apply to members of corporate boards.		
Affected Legislation	Rules of Civil Procedure; Rules of Appellate Procedure; Code of Ethics; Boards, Committees and Commissions Law; Garnishment Law; Per Capita Law; and any of the Nation's laws and bylaws.		
Enforcement/Due Process	Sanctions and penalties against appointed officials will be imposed by the Business Committee. Sanctions and penalties against elected officials will be imposed by the Trial Court. Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.		
Public Meeting	A public meeting was held on October 4, 2018.		
Fiscal Impact	See fiscal impact statement prepared by Finance Dept. in accordance with the Legislative Procedures Act.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. When officials of the Nation commit misconduct in office, there are few remedies available for the Nation to discipline that official. Currently, appointed officials may have their appointment terminated by the Business Committee, and elected officials may be removed in accordance with the Removal Law. However, there may be instances of misconduct that do not rise to the level of removal. In these cases, other remedies such as verbal reprimands, fines, or suspensions may be more appropriate.

- B.** This law creates a formal complaint process that gives all tribal members an opportunity to file complaints while ensuring that due process rights for those accused are protected. This law also creates a range of potential sanctions and penalties for officials who violate the laws of the Nation or commit other forms of misconduct.
- C.** During the Special Election held on July 9, 2016, the following referendum question was approved by a vote of 178 to 59: “Should the BC develop a law which provides for sanctions and due process for elected officials?” The Election Law requires the Oneida Business Committee to present referendum questions that receive a majority vote to the General Tribal Council (GTC) for discussion and action [see *Election Law 1 O.C. 102.12-9(c)*]. The LOC intends to present the final draft of this law to GTC for consideration.
- D.** This law will apply to members of the following entities:

ELECTED	APPOINTED
<ul style="list-style-type: none"> ▪ Oneida Business Committee ▪ Oneida Election Board ▪ Oneida Gaming Commission ▪ Oneida Land Claims Commission ▪ Oneida Land Commission ▪ Oneida Nation Commission on Aging (ONCOA) ▪ Oneida Nation School Board ▪ Trust Enrollment Committee ▪ GTC Legal Resource Center Advocates and Attorney 	<ul style="list-style-type: none"> ▪ Anna John Resident Centered Care Community Board (AJRCC) ▪ Audit Committee (1 community member seat) ▪ Environmental Resource Board (ERB) ▪ Finance Committee (1 community member seat) ▪ Oneida Library Board ▪ Oneida Nation Arts Board ▪ Oneida Police Commission ▪ Oneida Pow Wow Committee ▪ Oneida Nation Veterans Affairs Committee (ONVAC) ▪ Pardon and Screening Forgiveness Committee ▪ Southeastern WI Oneida Tribal Services Advisory Board (SEOTS)

*This law does not apply to members of the Judiciary or corporate entities of the Nation.

SECTION 3. CONSULTATION AND OUTREACH

- A.** The Rules of Civil Procedure, Rules of Appellate Procedure, Judiciary Law, Code of Ethics, Open Meetings and Open Records Law, and the Boards, Committees and Commissions Law were reviewed in drafting this analysis. In addition, the following laws were reviewed in drafting this analysis:
- Ho Chunk Nation Code of Ethics 2 HCC 1;
 - Oglala Sioux Tribe Code of Ethics Ordinance No. 08-11;
 - Pokagon Band of Potawatomi Indians Ethics Code;
 - Rosebud Sioux Tribal Code of Ethics Ordinance 86-04;
 - Siletz Tribal Council Ethics Ordinance –Siletz Tribal Code 2.200;
 - Skokomish Code of Ethics S.T.C. 1.05;
 - Pit River Tribal Government Code of Conduct Section 80.
- B.** The Business Committee Support Office, Records Management Department, Human Resources Department and representatives from the following Boards, Committees and Commissions were consulted in the development of this law and analysis:
- Anna John Resident Centered Care Community Board (AJRCC);

- Election Board;
- Environmental Resource Board (ERB);
- Gaming Commission;
- Land Commission;
- Police Commission;
- Pow-wow Committee;
- Trust Enrollment Committee;
- Oneida Nation Veterans Affairs Committee (ONVAC).

C. A community pot-luck meeting was held on May 3, 2018 to gather community input on this law. Sixteen (16) people attended this meeting.

SECTION 4. PROCESS

- A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- B. The law was originally added to the Active Files List on October 15, 2014 and was carried over from the previous term. The law was re-added to the Active Files List on September 6, 2017.
- C. At the time this legislative analysis was developed, the following work meetings had been held regarding the most recent efforts to develop this law and legislative analysis:
- September 6, 2017: LOC work meeting.
 - November 1, 2017: LOC work meeting with representatives from the following boards, committees and commissions: Police Commission, Trust Enrollment Committee, Election Board, Land Commission, Oneida Gaming Commission, Pow-wow Committee. All boards, committees and committees were invited to attend this work meeting.
 - December 6, 2017: LOC work meeting.
 - March 9, 2018: LOC work meeting.
 - May 3, 2018: Community pot-luck meeting with LOC, Oneida community members, BC Support Office, and representatives from the following boards, committees and commissions: Police Commission, ONVAC, ERB, AJRCCC, and Gaming Commission. All boards, committees and commissions were invited to attend this meeting.
 - May 11, 2018: LOC work meeting.
 - July 9, 2018: Work meeting with BC Support Office.
 - August 1, 2018: LOC work meeting.
 - October 17, 2018: LOC work meeting.
 - October 25, 2018: LOC work meeting.

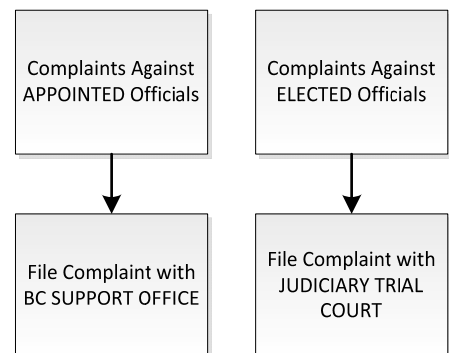
SECTION 5. CONTENTS OF THE LEGISLATION .

- A. *What Qualifies as Misconduct.* The Oneida Nation expects elected and appointed officials to uphold high ethical and moral standards. Officials who engage in misconduct may be subject to sanctions and penalties. This section describes what behaviors could be considered misconduct [see *Sanctions and Penalties 120.4*]. Under this law, the definition of misconduct is very broad and includes any of the following:
- Violating the Oneida Constitution or any law, policy or rule of the Oneida Nation.
 - Examples include the Code of Ethics, Conflict of Interest Law and Open Records and Open Meetings Law.

- Violating the bylaws or standard operating procedures of the board the official serves on.
- Being convicted of a felony under federal or Wisconsin law, or being convicted of a crime elsewhere that would be considered a felony in the state of Wisconsin or the United States.
- Any other activity that does not uphold the moral and ethical standards expected of the Nation's officials.

B. *Filing a Complaint.* Under this law, anyone eighteen (18) years or older who believes that an official has committed misconduct can file a complaint. The person filing the complaint does not need to be an enrolled tribal member. Examples of individuals who might file complaints include community members, employees of the Nation, and fellow officials. The complaint must be filed within 90 days of when the alleged misconduct occurred or was discovered [*see Sanctions and Penalties 120.5*].

Chart 2. Where to File Complaints



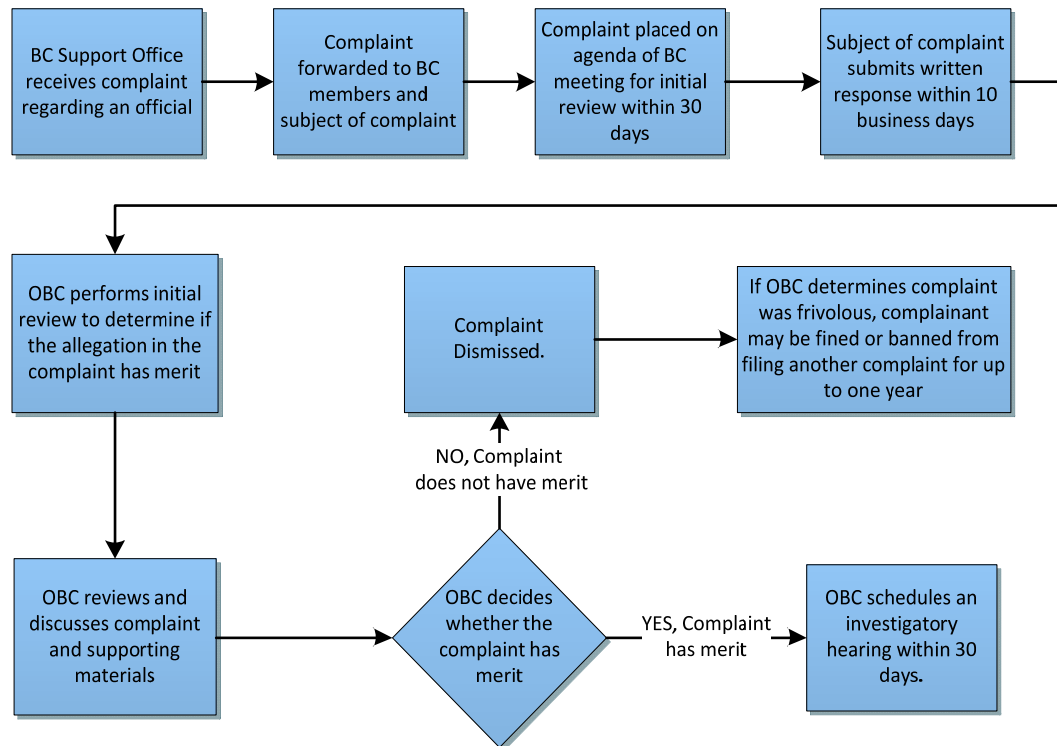
- ***Contents of the Complaint.*** Complaints must include the following information [*see 120.5-3*]:
 - Information about the official, including the official's name and the entity they serve on.
 - Information about the alleged misconduct, including date, time, location and specific details.
 - The specific law, policy, rule or bylaw that the official violated.
 - Information about any witnesses or others with knowledge of the violation.
 - Contact information of the individual filing the complaint.
 - Supporting documents and any other information required by the Rules of Civil Procedure.
 - The Rules of Civil Procedure must be followed for complaints against elected officials, which are filed in the Trial Court. More detail on the Rules of Civil Procedure is included later in this analysis.
- ***Where to File Complaints.*** Complaints against appointed officials are filed with the Business Committee (BC) Support Office, which is currently located at the Norbert Hill Center. Complaints against elected officials are filed with the Trial Court, which is located within the Oneida Judiciary.
- ***Retaliation.*** Retaliation against someone who files a complaint or cooperates with a misconduct investigation is not allowed.
- ***Right to an Attorney or Advocate.*** Any official who has been accused of misconduct has the right to be represented by an attorney or an advocate, at their own expense.
 - ***Legal Resource Center.*** The Legal Resource Center Law established an office to provide legal advice and representation to Tribal members and employees in cases before the Judiciary. This office currently has two advocates who provide services at cost.
- ***Confidentiality.*** All complaints against officials of the nation will be handled confidentially, with hearings and proceedings regarding the complaint closed to the public. Records of the hearings will be kept confidential. However, the final decision of the Business Committee or Judiciary and the sanctions and penalties imposed will be public information [*see 120.5-7*].

- *Analysis.* Comparison to Open Records Open Meetings law.

C. ***Complaints Against an Appointed Official.*** Complaints against an appointed official will be filed with the Business Committee (BC) Support Office. Appointed officials serve at the discretion of the Oneida Business Committee (BC), who may terminate appointments at any time [see *Boards, Committees Commissions 1 O.C. 105.7-4*]. The LOC has determined that because the BC is responsible for selecting and appointing officials, the BC should be responsible for holding appointed officials accountable through sanctions and penalties. The following is a description of the complaint process for appointed officials [see 120.6].

- ***Receipt of Complaint.*** When the BC Support Office receives a complaint, it will forward copies of the complaint to all members of the Oneida Business Committee (BC) for review, and to the official the complaint has been made against. The BC Support Office will place the complaint on the agenda of a Business Committee meeting within thirty (30) days.
- ***Mediation.*** The individual who filed the complaint or the official accused of misconduct may request mediation within five (5) business days of the complaint being filed. If both parties agree to mediation, the BC Support Office will schedule a meeting with a trained mediator to attempt to resolve the complaint. If the complaint is resolved by mediation, the complaint will be formally dismissed. If the complaint is not resolved, the initial review will proceed. [see 120.6-3].
- ***Answer to the Complaint.*** The official who has been accused of misconduct will have ten (10) business days to respond in writing to the complaint. The official may admit to the misconduct, deny the misconduct, or provide an affirmative defense. An affirmative defense means that an official admits they committed the alleged acts, but that they were justified in doing so.
- ***Conflict of Interest & Recusal.*** If a member of the Oneida Business Committee (BC) has a conflict of interest regarding a complaint, they must recuse themselves and not participate in the review or hearings. If a member of the BC fails to recuse themselves, that member may be subject to sanctions and penalties under this law.
- ***Initial Review.*** The Oneida Business Committee (BC) will review the complaint, the official's written response, and any documentation. The BC will discuss and decide whether the complaint has merit by majority vote. If the BC decides the complaint has merit, they will schedule an investigatory hearing. If BC decides the complaint does not have merit, it the complaint will be dismissed.
 - ***Frivolous Complaints.*** If the BC decides that an individual filed a complaint that was frivolous, false, or made with malicious intent, they may fine that individual up to \$500 or ban them from filing another complaint for up to 1 year. In addition, the official the complaint was filed against may also file a civil suit in the Trial Court.

Chart 3. Complaint Process Against Appointed Officials: Receipt and Initial Review of Complaint.



- 169

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171 ■ **Investigatory Hearing.** The BC will conduct an investigatory hearing during executive session of

172 a regular or special BC meeting. During this hearing, the BC will determine whether there is

173 enough evidence to substantiate the allegations by clear and convincing evidence.

 - 174 ○ **Burden of Proof.** The burden of proof for allegations made under this law is “clear and

175 convincing evidence.” This is the same standard the Nation uses in misconduct cases

176 against judges in the Oneida Judiciary [see 8 O.C. Judiciary Law 801.12-6(c)]. This

177 means that the person filing the complaint must provide evidence “indicating that the

178 [allegation] to be proved is highly probably or reasonably certain” [see *Black’s Law*

179 *Dictionary*]. This is a greater burden than “preponderance of the evidence,” the standard

180 in most civil trials, but less than evidence “beyond a reasonable doubt,” which is used for

181 criminal trials.- 182 ■ The BC will have the authority to call witnesses to provide testimony and physical evidence

183 under oath.

 - 184 ○ **Testimony.** The official accused of misconduct will have the opportunity to answer

185 allegations, provide witness testimony and evidence on their own behalf. The individual

186 who filed the complaint will also have an opportunity to answer questions, provide

187 witness testimony and information to support their claim. The hearing will be informal.
- 188 ■ **Deliberation.** After the investigatory hearing, the BC will remain in executive session to discuss

189 the evidence and information provided. The BC will also discuss which sanctions and penalties to

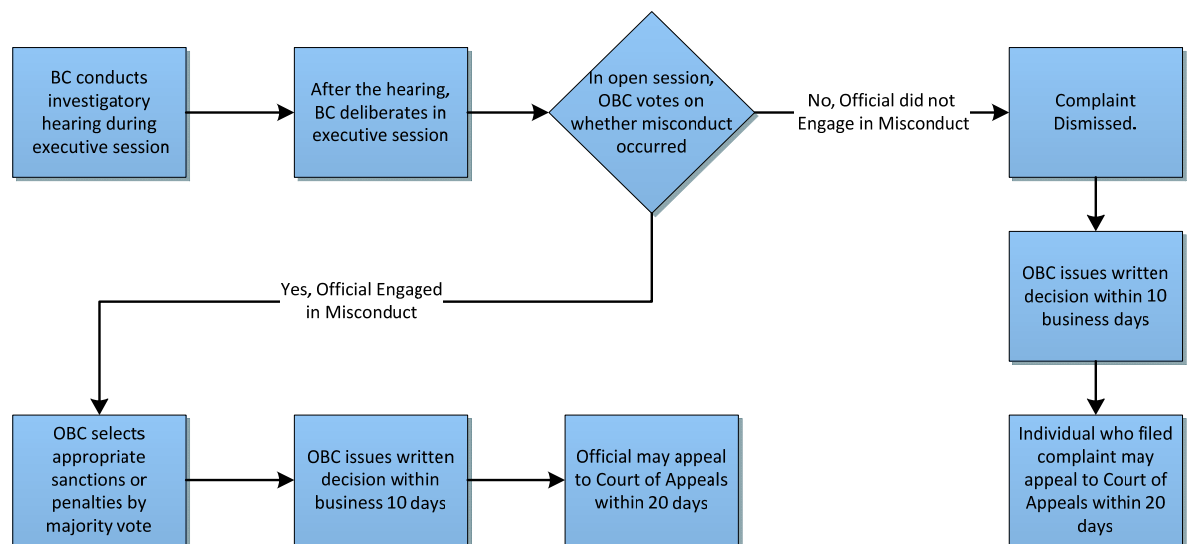
190 impose, if appropriate.
- 191 ■ **Determination.** During an open session of a special or regular Oneida Business Committee

192 meeting, the BC will vote to decide whether the allegations of misconduct have been proven by

clear and convincing evidence. If the BC finds that the official has engaged in misconduct, then they will also decide the appropriate sanction or penalty by majority vote. The BC must issue a written decision within 10 days of the investigatory hearing, and provide copies of the decision to the person who made the complaint, the official accused of misconduct, and the BC Support Office.

- **Appeal.** Both the official accused of misconduct and the individual who filed the complaint have the right to appeal the decision of the Oneida Business Committee. The appeal must be filed with the Court of Appeals in accordance with the Rules of Appellate Procedure.
 - **Timeline for Appeal.** The Rules of Appellate Procedure require parties to file an appeal within thirty (30) days of the original judgment [see *Rules of Appellate Procedure*, 8 O.C. 805.5-2(a)].

Chart 4. Complaint Process Against Appointed Officials: Investigatory Hearing & Decision



D. Complaints Against an Elected Official.

- Complaints against elected officials, including members of the Oneida Business Committee, will be heard by the Nation's Trial Court. Because elected officials are chosen by the tribal membership, it has been determined that complaints against these officials should go to the Nation's Trial Court [see *Sanctions and Penalties* 120.7].
- All complaints must follow the Judiciary Rules of Civil Procedure law. The following is a brief overview of how a civil case is processed by the Trial Court using the Rules of Civil Procedure.
 - **Petitioner Files a Complaint with the Trial Court and Pays Filing Fee.** The Trial Court has a standard complaint form with instructions to fill out the complaint.
 - **Complaint.** At the time this analysis was drafted, the Rules of Civil Procedure require the complaint to include the full name and address of the plaintiff and defendant, why the defendant is being sued, facts supporting each claim, why the trial court has jurisdiction, specifically what relief is sought from the defendant, and a summons [see *Oneida Judiciary Rules of Civil Procedure* 803.5-1].

- *Filing Fee.* The Oneida Judiciary Trial Court charges a \$50 filing fee to file a general civil case. However, individuals may request a fee waiver from the court for the following reasons: unemployed, health/medical, or below poverty level.

Note that this fee applies only to cases filed against elected officials. Complaints against appointed officials will be filed with the BC Support Office, which does not charge a fee.

- *Summons:* A summons is a document ordering a defendant to appear before a judge. The Trial Court has a standard summons form.

- *Complaint and Summons are served on official.* The complaint and summons must be delivered to the official within 30 days after the complaint is filed. In addition, for complaints against officials, notice must also be served to the Secretary's office [see 8 O.C. Rules of Civil Procedure 803.5].

- *Petitioner Files Proof of Service.* The petitioner must provide proof to the Court that the complaint and summons were delivered to the defendant within 10 days of delivery. If proof of service is not completed, then the case will be dismissed. [see Rules of Civil Procedure 803.5-3].

- *Official Files an Answer.* The official responds to the complaint by filing an answer. The official can either admit to or deny the allegations made in the complaint and provide defenses to each claim made in the complaint.

- *Pre-Trial Meeting.* A pre-trial meeting may be scheduled between the judge, petitioner and defendant. The purpose for this meeting could include preparing for the trial, creating a plan regarding discovery, or facilitating a settlement, such as peacemaking [see Rules of Civil Procedure 803.12].

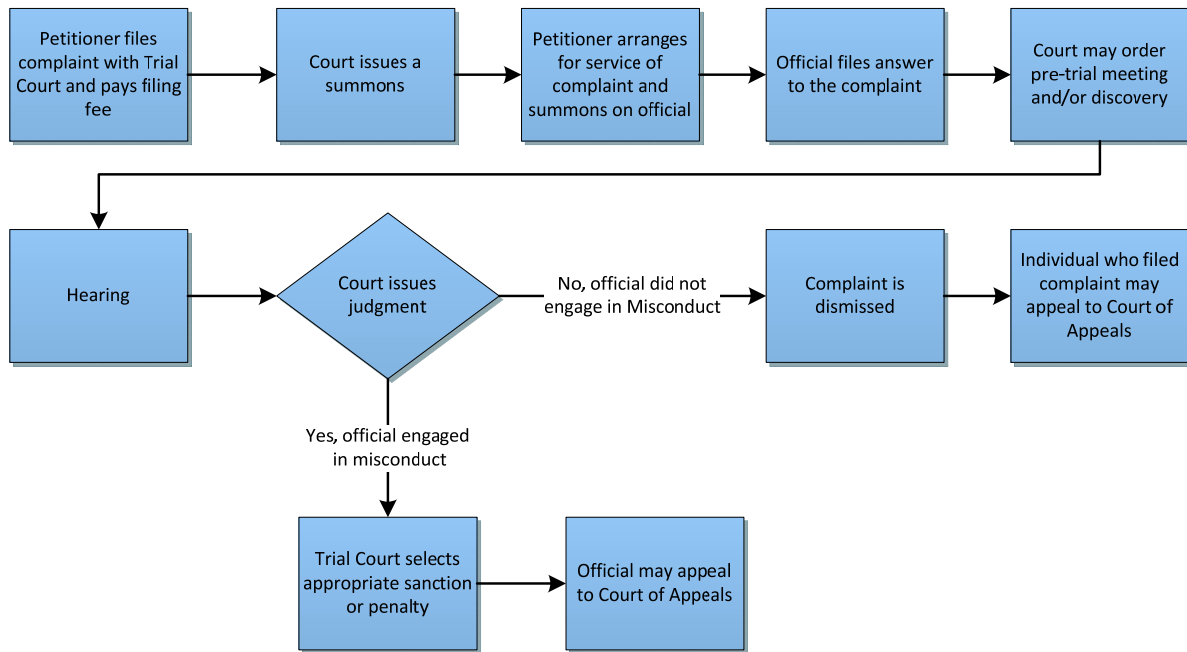
- *Discovery.* The petitioner may make efforts to obtain information relevant to the case, such as documents and electronic information. The judge may place limitations on the information.

- *Hearing.* The individual who filed the complaint must prove by clear and convincing evidence that the elected official committed misconduct.

- *Judgment.* If the Trial Court determines by clear and convincing evidence that the official engaged in misconduct, then the Trial Court will impose sanctions and penalties that they deem appropriate.

- *Appeals.* Both the official accused of misconduct and the individual who filed the complaint have the right to appeal the decision of the Trial Court. The appeal must be filed with the Court of Appeals in accordance with the Rules of Appellate Procedure.

Chart 5. Complaint Process Against Elected Officials



E. Sanctions and Penalties. This law includes a list of sanctions and penalties that may be imposed on an official for misconduct in office. The Trial Court is responsible for imposing sanctions on an elected official. The Oneida Business Committee is responsible for imposing sanctions on an appointed official. Officials may receive one or more of the following penalties. The Trial Court or BC will select whichever penalty they feel is appropriate. *[see Sanctions and Penalties 120.8]*

- **Conditional Penalties.** Sanctions and penalties can also be imposed on a conditional basis. For example, an official could be ordered to make a public apology or mandatory training, or otherwise face a fine or suspension *[see 120.8-4]*.
- **Failure to Comply.** If an official fails to comply with a sanction or penalty imposed against them, that official can face additional sanctions as a result of additional misconduct complaints under this law, termination of appointment, or Removal in accordance with the Removal Law. An example would be failing to pay a fine or violating the terms of their suspension. *[see 120.8-6]*.

Chart 5. List of Potential Sanctions and Penalties

- Verbal Reprimand
- Public Apology
- Written Reprimand
- Suspension
- Restitution
- Fines
- Loss of Stipend
- Mandatory Training
- Termination of Appointment
- Removal, in accordance with Removal Law

- 284 ▪ *Verbal Reprimand.* During a BC or GTC meeting, the Nation’s chairperson will read a statement
285 describing the official’s misconduct. The chairperson will also state that the official’s behavior
286 was unacceptable and that the official should not engage in misconduct again.
- 287 ▪ *Public Apology.* An official may be ordered to make a public apology at a BC or GTC meeting.
288 The apology must include a description of the misconduct, a statement that the actions were
289 wrong, a description of the harm caused by the misconduct, and a “clear and unambiguous”
290 apology.
- 291 ▪ *Written Reprimand.* The Oneida Business Committee or Judiciary Trial Court may publish a
292 written reprimand in the Nation’s official media outlets. The Nation’s official media outlets are
293 the Oneida Nation website and the Kalihwisaks newspaper [see *BC Resolution #03-22-17-B*].
294 The written reprimand will include the same information as a verbal reprimand.
- 295 ▪ *Suspension.* The BC or Trial Court may suspend part-time officials for up to two (2) meetings.
296 Full-time officials, such as members of the Business Committee or Gaming Commission, may be
297 suspended for up to fifteen (15) business days. During a suspension, the official cannot attend
298 meetings, trainings, or conferences. The official also cannot vote or perform work for the board.
299 In addition, the official cannot earn any stipends, salary or mileage during the suspension.
 - 300 ○ *Multiple Suspensions on One Entity.* If multiple officials on the same entity are
301 suspended at the same time, the suspensions must be imposed on a staggered basis to
302 avoid loss of a quorum. For example, if multiple members of the Business Committee are
303 suspended, each member will be suspended one at a time on a staggered basis [see *120.8-*
304 *2(d)(3)*].
- 305 ▪ *Restitution.* An official can be ordered to pay restitution, which means paying back any
306 improperly received benefit, such as stolen money or items or replacing damaged property. The
307 point of restitution is to make someone whole. Examples of restitution include paying back
308 money that was improperly taken or paying to repair or replace damaged items.
- 309 ▪ *Fines.* An official can be ordered to pay a fine for each act of misconduct. Unlike restitution, a
310 fine is a punishment. The maximum amount of each fine is \$2500.
 - 311 ○ *Fine Process.* All fines will be paid to the trial court and deposited into the Nation’s
312 General Fund. Officials must pay their fine within 90 days after the fine is issued or
313 upheld on final appeal. If the fine is not paid on time, the Nation may collect the money
314 through garnishment or the official’s per capita payment.
 - 315 ○ *Community Service Alternative.* An official can complete community service to make up
316 all or part of their fine. The rate earned for community service will be the Nation’s
317 minimum wage, which is currently \$10.10 per hour. The Nation currently allows
318 community service for fines issued in the Hunting, Fishing and Trapping Law [see
319 *Hunting Fishing and Trapping 406.10-5(a)*].
- 320 ▪ *Loss of Stipend.* An official may lose their stipend for up to two (2) meetings. Members of
321 appointed boards are eligible for only one meeting stipend per month, so at most this could
322 amount to two month’s worth of stipends [see *Boards, Committees and Commission Law 1 O.C.*
323 *105.13-3(a)*]. Members of elected boards may receive up to two (2) meeting stipends per month,
324 so this could amount to one month’s worth of stipends for a board that meets twice monthly [see
325 *Boards, Committees and Commissions Law 1 O.C. 105.13-3(b)*].
- 326 ▪ *Mandatory Training.* An official can be ordered to complete mandatory training program to
327 address their behavior. Examples include anger management or sexual harassment training.

- 328 ▪ *Termination of Appointment.* The Oneida Business Committee can terminate the appointment of
329 any appointed official at any time. All appointed members serve at the discretion of the BC [see
330 *Boards, Committees and Commissions 1 O.C. 105.7-4*].
- 331 ▪ *Removal.* The Trial Court can recommend that an official be removed from office in accordance
332 with the Removal Law. However, this would only be a recommendation. The Removal Law
333 provides a strict process that must be followed to remove elected officials:
 - 334 ○ *Removal Law Process.* In order to remove an elected official, an eligible voter must file a
335 petition with the Secretary signed by at least 30% of the vote cast in the previous general
336 election. For example, the number of votes cast in the 2017 general election was 1612, so
337 the number of signatures needed to initiate removal is 484. Then, the Judiciary conducts
338 a preliminary review to determine whether there is sufficient grounds for removal. If so,
339 the Judiciary holds a hearing. If the Judiciary determines that sufficient grounds for
340 removal has been proven, the findings are forwarded to the Nation's Chair, who
341 schedules a GTC meeting. At the GTC meeting, an elected official may be removed from
342 office after a 2/3 vote [see *Removal Law 1 O.C. 104*].

343 **F. *Factors in Determining Appropriate Sanction and/or Penalty.*** The Trial Court and Oneida Business
344 Committee may consider the following when deciding which sanction or penalty to apply [see
345 *Sanctions and Penalties 120.8-3*].

- 346 ▪ How severe the misconduct was, whether it was intentional, and how likely the official is to
347 repeat the misconduct.
- 348 ▪ The damage to the finances or reputation of the Nation, the entity, or any person or organization.
- 349 ▪ Whether the official has expressed remorse and is willing to take steps to correct the harm done.
- 350 ▪ Whether any prior complaints have been filed against the official. For example, is this the first
351 complaint against the official or does it represent a pattern of behavior.

352 **G. *Civil Liability and Criminal Prosecution.*** In addition to the sanctions and penalties in this law, an
353 official who commits misconduct may also suffer other consequences. [see *Sanctions and Penalties*
354 *120.8-4*]. These include:

- 355 ▪ Removal from office or termination of appointment.
- 356 ▪ Criminal prosecution, if the official violated a criminal law. For example, criminal charges for
357 theft or violent acts.
- 358 ▪ Civil liability, in accordance with any applicable law of any jurisdiction. For example, a lawsuit
359 in court for damages.
- 360 ▪ Any other penalties listed in another law of the Oneida Nation.
 - 361 ○ For example, a violation of the Computer Resources Ordinance may result in loss of
362 access to the Nation's computer resources [see *Computer Resources Ordinance 2 O.C.*
363 *215.9-1*].

364 **H. *Effect of Resignation by an Official.*** If an official resigns from office after a complaint has been
365 filed, that complaint will still be investigated and sanctions and penalties may still be pursued.
366 Resigning from office does not end or prevent an investigation [see *Sanctions and Penalties 120.9*].

367 **I. *Record of Conduct in Office.*** A record of conduct for each official will be maintained by the BC
368 Support Office, which will include copies of complaints filed against the official, outcome of the
369 complaints, and any sanctions and penalties the official received. This record will be maintained for at
370 least seven (7) years [see *Sanctions and Penalties 120.10*].

- *Public Access to Record of Conduct.* The Open Records and Open Meetings law provides tribal members with access to public records of the Nation. However, the Open Records and Open Meetings law also states that “any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration or court proceeding” is exempt from inspection and copying [see *Open Records and Open Meetings Law 1 O.C. 107.4-1(j)*]. Therefore, this suggests that the record of conduct maintained by the BC Support Office would not be available for the public to view or copy. However, it should be noted that sanctions such as verbal reprimands, written reprimands and public apologies will occur in public meetings or be published in the Nation’s newspaper.

SECTION 6. EFFECT ON EXISTING LEGISLATION

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

- *Rules of Civil Procedure.*
- *Rules of Appellate Procedure.*
- *Garnishment Law.*
- *Per Capita Law.*

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

A. *Due Process.* Officials accused of misconduct have the right to be represented by an attorney or advocate. Officials also have the right to submit a written response to the complaint, and an opportunity to appear at the investigatory hearing to answer the allegations, provide witness testimony, documents and evidence on their behalf. Complaints against officials must be proven by clear and convincing evidence.

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

A. Sanctions and penalties against appointed officials will be imposed by the Business Committee. Sanctions and penalties against elected officials will be imposed by the Nation’s Trial Court.

SECTION 9. OTHER CONSIDERATIONS

A. *Code of Ethics.* Most other tribal, municipal and state governments place sanctions and penalties within their Code of Ethics law. This makes sense, as the Code of Ethics and Sanctions and Penalties are closely related. The Code of Ethics provides guidelines that officials must follow, while the sanctions and penalties describe what happens if those guidelines are violated.

- ***Amendments to Code of Ethics.*** Efforts to create a Sanctions and Penalties law should include an update of the Code of Ethics so that the two documents work together harmoniously. Currently, portions of the Nation’s Code of Ethics are written in vague, broad terms. In contrast, the Codes of Ethics of other Tribal Nations and municipalities often provide clear, specific examples. Updating the Code of Ethics would provide clear guidance to officials, individuals filing complaints, the Business Committee and the Judiciary when they begin hearing complaints under this law.

- **Recommendation:** The Code of Ethics is currently on the LOC's Active Files List. It is suggested that work proceed on reviewing and updating the Code of Ethics as this Sanctions and Penalties law moves forward.

B. Number of Potential Complaints. Since the Nation currently has no formal sanctions and penalties process, it is not possible to predict the number of complaints that may be filed against elected and appointed officials.

- **Other Forms of Complaint.**

- i. The Removal Law requires a large number of signatures and has rarely (if ever) been successfully used.
- ii. GTC petitions provide another opportunity for tribal members to express their complaints and opinions regarding actions of the Nation. Petitions require 50 (fifty) signatures, and over the past decade GTC has received between five (5) and (17) petitions per year. Both Removal Law and GTC petitions require signatures, while the sanctions and penalties process does not. Therefore, it is reasonable to assume that the number of complaints filed using this law may be higher.
- iii. GTC Meetings regularly feature complaints from GTC members regarding individual office holders or specific boards, committees and commissions. It is not known how many of these verbal complaints would result in written complaints under this law.

- **Recommendation:** Given the uncertainty regarding the number of potential complaints, the Business Committee, BC Support Office and Judiciary should be prepared to potentially process a large number of complaints upon passage of this law.

C. Impact of Suspension on Full-Time Officials. Members of the Oneida Business Committee and Oneida Gaming Commission are full-time elected officials. Therefore, suspension of these officials will impact salaries, benefits such as health insurance, and access to buildings. The Human Resources Department reports that they have a suspension procedure in place for employees of the Nation, and that this procedure could be applied or modified for suspension of full-time officials.

- **Recommendation:** Since notifications of suspension go to the BC Support Office, it is suggested that the BC Support Office work with HRD to develop a process should suspensions of full-time BC members or Gaming Commissioners occur.

D. Comparison to Other Nations. Research of other tribal nations and municipalities indicate that there are many different processes for sanctions and penalties of public officials. There is not a single standard used by all tribal governments. Examples of other sanctions and penalties processes are provided for information:

Chart 6. Sanctions and Penalties Process of other Tribal Nations

Tribe	Where Complaints Are Filed	Who Investigates the Complaint	Who Decides the Sanction or Penalty
Siletz	Tribal Council*	Ad Hoc Committee or Special Advisor appointed by Tribal Council*	Tribal Council*
Ho Chunk	Judiciary	Judiciary	President
Rosebud Sioux	Ethics Commission, appointed by Tribal Council*	Ethics Commission, appointed by Tribal Council*	Tribal Council*
Skokomish	Ethics Officer, appointed by Tribal Council*	Ethics Officer, appointed by Tribal Council*	Chairman

*Note that “Tribal Council” refers to an elected body similar to the Oneida Business Committee.

E. Create a Standard Complaint Form. The BC Support Office and Judiciary may want to consider drafting standard complaint forms to provide to individuals who wish to file a complaint against officials under this law. This form could include the information required under 120.5-3, instructions, and clearly state where complaints against elected officials or appointed officials must be filed. The Nation’ Trial Court has a standard civil complaint packet which could be used as an example.

F. Community Service. This law allows officials to complete community service instead of paying a fine. These volunteer hours will need to be tracked and reported to ensure that they have been completed. The Hunting, Fishing and Trapping Law has a similar community service provision for fines issued under that law. The Trial Court has developed a form for documenting community service. The individual is required to contact entities on their own to schedule their own community service. Environmental Resource Board (ERB) reports that a deadline was typically placed on when the community service had to be completed. At the time this analysis was drafted, the completed volunteer forms are turned in to the Law Office.

- **Recommendation:** The Judiciary and/or Law Office should be prepared to accept and track community service hours should individuals be fined under this law.

G. Oneida Youth Leadership Institute Board of Directors. The Oneida Youth Leadership Institute’s (OYLI) charter states that it is not a board, committee or commission for the purposes Boards, Committees and Commissions Law. However, the OYLI may meet the definition of an “entity” for the purposes of the Sanctions and Penalties law. The definition of “entities” subject to Sanctions and Penalties law is “a board, committee, commission, office, or other group of the Nation an individual may be appointed or elected to serve a position on...” The law includes an exclusion for corporate boards. However, the OYLI is an unincorporated agency, not a corporate board.

- **Recommendation.** The LOC should consider clarifying whether the OYLI Board of Directors is subject to Sanctions and Penalties. If the LOC wishes to exclude the OYLI from this law, it is recommended that this be included either in section 120.1-1 with the exclusions for corporate boards and the Judiciary, or by revising the definition of entity. Whether to exclude OYLI from this law is a policy decision.

H. Complaints against Judiciary. The Judiciary Law already contains a process for reprimand, suspension and removal of judges [see *Judiciary Law 8 O.C. 801.12*]. Therefore, the Judiciary is not included in this law.

I. Rules of Civil Procedure. Complaints filed in the Judiciary Trial Court must follow the Rules of Civil Procedure. At the time this analysis was drafted, the Rules of Civil Procedure are on the LOC's Active Files List and may be amended in the near future.

J. Fiscal Impact. Please refer to the fiscal impact statement for any fiscal impacts.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [see *Legislative Procedures Act 1 O.C. 109.6-1*].
- A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating Committee and may be prepared by any agency who may receive funding if the legislation is enacted; who may administer a program if the legislation is enacted; who may have financial information concerning the subject matter of the legislation; or by the Finance Office, upon request of the Legislative Operating Committee [see *Legislative Procedures Act 1 O.C. 109.6-1(a) and (b)*].

December 2018

December 2018						
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January 2019						
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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Nov 25	26	27	28	29	30	Dec 1
2	3 12:15pm PUBLIC MEETING: Whistleblower Protection Law (BC_Conf_Roo	4	5 9:00am LOC Meeting (BC_Conf_Room) - LOC	6	7	8
9	10 6:00pm GTC (Radisson)	11	12	13	14 8:30am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	15
16	17	18	19 9:00am LOC Meeting (BC_Conf_Room) - LOC	20	21	22
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30	31	Jan 1, 19	2	3	4	5

January 2019

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Dec 30	31	Jan 1, 19	2 9:00am LOC Meeting; BC Conference Room	3	4	5
6	7	8	9	10	11 9:00am LOC Work Session (BC_Exec_Conf _Room) - Clorissa N. Santiago	12
13	14	15	16 9:00am LOC Meeting; BC Conference Room	17	18	19
20	21 6:00pm GTC (Radisson)	22	23	24 1:30pm LOC Work Session (BC_Exec_Conf _Room) - Clorissa N. Santiago	25	26
27	28	29	30 9:00am LOC Work Session (BC_Exec_Conf _Room) - Clorissa N. Santiago	31	Feb 1	2