

**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*

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 This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.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

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

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:

(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.

(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.

(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.



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

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.

(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.

(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

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

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

(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

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



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.*

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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-\_\_-\_\_-\_\_-