



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room-2nd Floor Norbert Hill Center
June 5, 2019
9:00 a.m.

- I. Call to Order and Approval of the Agenda**

- II. Minutes to be Approved**
 1. May 15, 2019 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 1. Curfew Law (pg. 3)

- IV. New Submissions**

- V. Additions**

- VI. Administrative Updates**
 1. Election Law Amendments E-Poll Results (pg. 21)

- VII. Executive Session**

- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 15, 2019
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King

Others Present: Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Kristen Hooker, Leyne Orosco, Lee Cornelius

I. Call to Order and Approval of the Agenda

David P. Jordan called the May 15, 2019 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

Motion by Kirby Metoxen to approve the May 1, 2019 Legislative Operating Committee meeting minutes; seconded by Ernest Stevens III. Motion carried unanimously.

III. Current Business

IV. New Submissions

1. Citations Law (1:53-14:22)

Motion by Jennifer Webster to add the Citations Law to the active files list with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Abstained by Ernest Stevens III and Daniel Guzman King. Motion carried.

V. Additions

VI. Administrative Items

1. Oneida Personnel Commission Bi-Monthly Update Memo (14:30-17:04)

Motion by Jennifer Webster to accept the memorandum and forward to the Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn the May 1, 2019 Legislative Operating Committee meeting at 9:16 a.m.; seconded by Ernest Stevens III. Motion carried unanimously.





Legislative Operating Committee June 5, 2019

Curfew Law

Submission Date: 12/19/18	Public Meeting: n/a
LOC Sponsor: Ernest Stevens III	Emergency Enacted: n/a

Summary: *This was a recommendation from the TAP Law and Policy Subcommittee, to develop a curfew law for the Oneida Nation.*

12/19/18 LOC: Motion by Jennifer Webster add the Curfew Law to the active files list and assign Ernest Stevens III as the sponsor; seconded Ernest Stevens III. Motion carried unanimously.

2/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Maureen Perkins. The purpose of this work meeting was to obtain information from the Oneida Police Department regarding any issues that may currently be occurring on the Reservation related to a lack of curfew, as well as discuss OPD’s role in potentially enforcing a Curfew law.

2/14/19: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to provide the LOC an update on communications with the Oneida High School’s Clan Council, and recent work meeting with OPD. The LOC also discussed potential dates for holding a community meeting potluck on the curfew law.

2/20/19 LOC: Motion by Daniel Guzman King to approve the community meeting notice and direct that a community meeting for the proposed Curfew Law be held on Thursday, March 21, 2019; seconded by Ernest Stevens III. Motion carried unanimously.

3/13/19: *Work Meeting.* Present: Clorissa N. Santiago, Maureen Perkins, student representatives from the Oneida Nation Clan Council. The purpose of this work meeting was to obtain information from the Oneida High School Clan Council regarding their thoughts and opinions on a potential curfew law.

3/21/19: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to prepare for tonight’s community meeting on the curfew law. The LOC discussed the format for the community meeting, potential discussion points, and questions the LOC members currently have themselves regarding this topic.

3/21/19: *Community Meeting.* Present: David P. Jordan, Lisa Summers, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Maureen Perkins. No community members attended the community meeting.

5/1/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was for the LOC to review the draft of the Curfew law. The LOC made policy decisions for

curfew, and directed minor changes be made to the draft. The LRO will update the draft and complete a legislative analysis to be brought back in the near future.

5/15/19:

Work Meeting. Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Jennifer Falck, Clorissa N. Santiago, Maureen Perkins. The purpose of this work meeting was to review and discuss a couple remaining questions that need to be determined before a draft is finalized. LOC provided direction, and a draft will be finalized and moved forward. On track to bring draft and analysis to June 5, 2019 LOC meeting.

Next Steps:

- Accept the draft and legislative analysis of the Curfew law and defer these items to a work meeting for further consideration.

Title 3. Health and Public Safety - Chapter 308
CURFEW
Tayethinatshawk'late? Kayanlsla?
We'll put our arms across to stop them Law

308.1. Purpose and Policy
308.2. Adoption, Amendment, Repeal
308.3. Definitions
308.4. Jurisdiction

308.5. Curfew
308.6. Enforcement of Curfew Violations
308.7. Penalties of Curfew Violations

1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
14 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
15 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
16 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.
19 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.
21 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22
23 **308.3. Definitions**
24 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.
26 (a) “Court of Appeals” means the branch of the Nation's Judiciary delegated the authority
27 of final appeal within the Nation’s Judiciary, as authorized by Oneida General Tribal
28 Council resolution GTC-03-19-17-A .
29 (b) “Family Court” means the branch of the Nation’s Judiciary delegated the authority to
30 administer the judicial authorities and responsibilities of the Nation related to the family
31 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
32 17-A.
33 (c) “Guardian” means the person, department, and/or agency appointed the duty and
34 authority of guardianship of a child by a Court for the purpose of managing and caring for
35 the child. A guardian has the right to make major decisions affecting a child including
36 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

37 in the armed forces, to major surgery and medical treatment and to adoption, or make
38 recommendations as to adoption.

39 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
40 or guardian, to whom legal custody of a child has been granted by Court order and has the
41 rights and responsibilities for the following:

42 (1) To have physical custody of the child as determined by the Court, if physical
43 custody is not with the person having legal custody;

44 (2) To protect, educate and discipline the child so long as it is in the child’s best
45 interest; and

46 (3) To provide the child with adequate food, shelter, education, ordinary medical
47 care and other basic needs, according to court order. In an emergency situation, a
48 custodian shall have the authority to consent to surgery as well as any other
49 emergency medical care needs.

50 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

51 (f) “Minor” means a person age seventeen (17) years old or younger.

52 (g) “Nation” means the Oneida Nation.

53 (h) “Parent” means the biological or adoptive parent of a child.

54 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
55 any public lands.

56 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

57 (k) “Reservation” means all the property within the exterior boundaries of the Reservation
58 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
59 and any lands added thereto pursuant to federal law.

61 **308.4. Jurisdiction**

62 308.4-1. *Personal Jurisdiction.* This law applies to:

63 (a) All members of the Nation, individuals eligible for enrollment in the Nation, and
64 members of other federally-recognized tribes.

65 (b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by
66 individual members of the Nation; and/or lands held in trust on behalf of the Nation or
67 individual members of the Nation.

68 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
69 consistent with federal law. An individual shall be considered to have consented to the
70 jurisdiction of the Nation:

71 (1) By entering into a consensual relationship with the Nation, or with the Nation’s
72 entities, corporations, or members of the Nation, including but not limited to
73 contracts or other agreements; or

74 (2) By other facts which manifest an intent to consent to the authority of the Nation,
75 including failure to raise an objection to the exercise of personal jurisdiction in a
76 timely manner.

77 308.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
78 the Nation and individual trust and/or fee land of a member of the Nation.

80 **308.5. Curfew**

81 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
82 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
83 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

84 308.5-2. *Parental Responsibility*. No parent, guardian, or legal custodian shall knowingly permit
85 or fail to take action to prevent the minor from being on any public space either on foot or in any
86 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
87 the Reservation.

88 308.5-3. *Exemptions to Curfew*. A minor shall not be in violation of the curfew, if at the time of
89 the alleged violation the minor was:

- 90 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 91 (b) engaged in employment or an employment related activity, or traveling to or returning
92 home from employment;
- 93 (c) engaged in interstate travel;
- 94 (d) attending an educational, cultural, religious, or recreational activity that was supervised
95 by adults, or traveling to or returning home from such activity;
- 96 (e) on the sidewalk in front of his or her home or an adjacent home;
- 97 (f) going to, attending, or returning home from a movie theatre;
- 98 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
99 of the Nation;
- 100 (h) exercising rights protected by the Nation's Constitution and the United States
101 Constitution, such as free exercise of religion, freedom of speech, and the right of
102 assembly;
- 103 (i) involved in an emergency situation; and/or
- 104 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
105 officer.

106 **308.6. Enforcement of Curfew Violations**

108 308.6-1. *Enforcement Procedure*. A suspected violation of curfew shall be enforced by the Oneida
109 Police Department in the following ways:

- 110 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
111 Officer. No person shall assault, obstruct or flee from any Oneida Police Officer enforcing
112 or attempting to enforce the provisions of this law.
- 113 (b) The Oneida Police Officer shall ask the minor's name, age, and reason for violating
114 curfew. The minor shall provide the Oneida Police Officer identification if available. No
115 person shall falsely represent his or her name or age to an Oneida Police Officer.
- 116 (c) If the Oneida Police Officer reasonably believes based on the totality of the
117 circumstances that a violation of curfew has occurred and not one of the exemptions in
118 section 308.5-3 apply, the Oneida Police Officer may take custody of the minor for the
119 purpose of returning such minor to the care and custody of a parent, guardian, or legal
120 custodian.
- 121 (d) Once the Oneida Police Officer has taken the minor into his or her custody, the minor
122 shall provide the Oneida Police Officer with contact information for his or her parent,
123 guardian, or legal custodian. The Oneida Police Officer shall contact the minor's parent,
124 guardian, or legal custodian to come and pick up the minor and take the minor into his or
125 her care and custody. If the minor's parent, guardian, or legal custodian is unable to pick
126 the minor up, then the Oneida Police Officer may bring the minor home to release the minor
127 to the custody and care of the minor's parent, guardian, or legal custodian.
- 128 (e) If the Oneida Police Officer is unable to contact the minor's parent, guardian, or legal
129 custodian after reasonable efforts are made, the Oneida Police Officer shall attempt to

130 locate an adult relative or other responsible adult willing and able to accept the care and
131 custody of the minor, and may release the minor into the care and custody of such person.
132 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Officer for a
133 curfew violation the Oneida Police Officer shall provide the minor and the minor's parent,
134 guardian, or legal custodian a warning and advise the minor and parent, guardian, or legal
135 custodian of the provisions of this law and that any subsequent curfew violations may result in the
136 issuance of a citation and the imposition of a penalty.

137 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
138 Police Officer for a curfew violation the Oneida Police Officer may issue a citation to the minor
139 and the minor's parent, guardian, or legal custodian.

140 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
141 include fines and other penalties, as well as conditional orders made by the Family Court.

142 (b) A citation for a violation of this law shall be processed in accordance with the
143 procedure contained in the Nation's laws and policies governing citations.

144 (c) All citations for violations of this law require a mandatory appearance at the citation
145 pre-hearing by the minor and his or her parent, guardian, or legal custodian.
146

147 **308.7. Penalties of Curfew Violations**

148 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
149 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

150 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
151 The Oneida Business Committee shall hereby be delegated the authority to adopt through
152 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

153 (1) All fines shall be paid to the Judiciary.

154 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
155 on final appeal, whichever is later.

156 (A) The ninety (90) day deadline for payment of fines may be extended if
157 an alternative payment plan is approved by the Family Court.

158 (3) If an individual does not pay his or her fine the Family Court may seek to collect
159 the money owed through the Nation's garnishment and/or per capita attachment
160 process.

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

162 (5) Community service may be substituted for part or all of any fine at the minimum
163 wage rate of the Nation for each hour of community service.

164 (b) *Community service.* An individual may be ordered to perform community service.
165 Community service can be used in lieu of, or in addition to, a fine.

166 (1) All community service assignments shall be approved by the Family Court.
167 The Family Court shall give preference to culturally relevant community service
168 assignments and/or community service assignments that focus on the betterment of
169 the individual's community.

170 (2) The Family Court shall provide the individual a written statement of the terms
171 of the community service order, and a statement that the community service order
172 is monitored.

173 (3) The Family Court's community service order shall specify:

174 (A) how many hours of community service the individual is required to
175 complete;

176 (B) the time frame in which the hours shall be completed;

- 177 (C) how the individual shall obtain approval for his or her community
178 service assignment;
179 (D) how the individual shall report his or her hours; and
180 (E) any other information the Family Court determines is relevant.
181 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
182 participate in a family counseling and/or a parenting program.
183 (d) Any other penalty as deemed appropriate by the Family Court.

184
185 *End.*

186
187 _____
188 Adopted – BC-__-__-__-__



CURFEW LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Tribal Action Plan Laws and Policy Subcommittee	SPONSOR: Ernest Stevens III	DRAFTER: Clorissa N. Santiago	ANALYST: Maureen Perkins
Intent of the Legislation	The Tribal Action Plan (TAP) Laws and Policy Subcommittee recommended the Legislative Operating Committee (LOC) draft a curfew law to protect the safety of youth in the community, as well as provide accountability to both youth and parents through consequences that reflect the circumstances and needs of the community. The Curfew law (“Law”) will protect the health, safety and welfare of persons and property on the Reservation by restricting access to public spaces by minors during certain night time and early morning hours.		
Purpose	To protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of minors for the control and supervision of minors [3 O.C. 308.1-1].		
Affected Entities	Oneida Police Department (OPD) and Oneida Judiciary		
Affected Legislation	Family Court law, Per Capita law, Garnishment law, Rules of Appellate Procedure, Family Court Rules, Oneida Judiciary Rules of Evidence, Oneida Judiciary Rules of Civil Procedure, Landlord-Tenant law		
Enforcement	<p>The OPD will enforce suspected violations of this Law by issuing warnings and citations [3 O.C. 308.6].</p> <p>Citations issued result in a mandatory appearance at a citation pre-hearing for both the minor and his or her parent, guardian, or legal custodian.</p> <ul style="list-style-type: none"> • The Family Court may issue conditional orders as well as penalties that include fines, community service, mandatory participation in family counseling or parenting programs, and any other penalty the Family Court deems appropriate [3 O.C. 308.6-3(a) and (c)]. 		
Due Process	A citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation’s laws and policies governing citations [3 O.C. 308.6-3(b)].		
Public Meeting	A public meeting has not yet been held.		
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.		

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

2 A. **Background.** The Nation does not currently have a law establishing a curfew governing minors in
 3 public spaces during certain night time and early morning hours. This Curfew law was requested by
 4 the Tribal Action Plan (TAP) Laws and Policy Subcommittee which included input from a cross
 5 functional core team that included representatives from the Oneida Business Committee (OBC), the

6 Oneida Police Department, Governmental Services Division, Oneida Gaming Commission, Oneida
7 Family Support Services, the Legislative Operating Committee, the Legislative Reference Office
8 (LRO), Oneida Human Resources Department and Retail Division. This team concluded that a curfew
9 law would help curtail opportunities for minors to be influenced by drugs by limiting their presence in
10 public spaces within the community during certain hours, including night time and early morning,
11 without the presence of a parent, guardian, or legal custodian.

12 *Outreach Efforts*

13 Outreach with the community was held during the Community Budget Session on November 30,
14 2018 where the LOC had an opportunity to collect input from participants by asking them to share their
15 ideas about new laws, amendments to existing laws or anything else they wanted to share. Participants
16 indicated the need for a curfew law for the Reservation [*LOC FY19 First Quarter Report*].
17 Additionally; a community outreach event was held on March 21, 2019 at the Norbert Hill Center
18 cafeteria from 5:00 p.m. to 7:30 p.m. to collect input from the community. No members of the
19 community participated in this event.

20 *Related Research*

21 Research regarding curfew laws revealed that the most common goals of a curfew law are to 1)
22 protect children from becoming victims or perpetrators of crimes, 2) assist parents in exercising their
23 responsibility over minors, and 3) prevent all persons from the dangers posed by unsupervised minors
24 who are out late at night and in the early morning hours. Research indicates that curfew laws may
25 protect youth from victimization and prevent juvenile crimes and delinquency by reducing or
26 preventing exposure of youth to negative situations by restricting their access to public spaces at night
27 and early morning hours [*Grossman & Martin, 2015*]. Although some research has indicated that most
28 crimes involving minors take place during after school hours rather than late at night or early morning
29 hours [*Meyers, 2016*]; the goal of this legislation within the Oneida reservation is to keep minors safe
30 and accounted for during curfew hours.

31 According to the Office of Juvenile and Delinquency Prevention; the following contribute to the
32 successful implementation of curfew policies:

- 33 ○ Community involvement;
- 34 ○ Creating specific procedures for repeat offenders such as recreational, educational, and job
35 opportunities as well as antidrug and antigang programs;
- 36 ○ Providing a hotline for community questions or problems related to curfews or juvenile
37 delinquency in general; and
- 38 ○ Providing intervention services for juveniles and their families.

39 B. ***Previous Attempts to Implement a Curfew.*** The LOC has considered a law that included a curfew in
40 the past. A curfew provision was considered in a Public Nuisances law drafted by the LOC in 2010;
41 however, this law was not completed or adopted.

- 42 ● Previous attempts at regulating minors through a curfew that were not legislative include a curfew
43 requirement of 10:00 p.m. to 6:00 a.m. that was included in previous Oneida Housing Authority
44 tenant leases. This provision is not in current leases [*Email Communication 05/03/2019, Scott
45 Denny, Residential Rentals & Outreach Area Manager, Oneida Comprehensive Housing
46 Division*].

47 C. ***Expected Benefits.*** The purpose of this legislation is to provide a clear timeframe that minors must be
48 out of public spaces and accounted for by their parents, guardians or legal custodians. Members of the
49 Oneida Nation High School Clan Council indicated that a curfew law may help to prevent teens from
50 partying, staying out late and engaging in other bad behaviors; as well as helping with responsibility,

51 encouraging youth to stay out of trouble and encouraging safety and school attendance. A curfew law
52 provides a means for parents to enforce a curfew with their children to provide an additional measure
53 of safety, accountability, obligation and responsibility to both the Nation's minors and adults
54 [McDowall, Loftin & Wiersema, 2009]. A curfew law provides OPD with a means to engage with
55 suspected minors during curfew hours to tell them to go home and to encourage adult supervision of
56 minors during curfew hours. OPD has expressed that the goal is to keep minors safe and to prevent
57 vandalized property, arson, graffiti, petty theft and drug issues.
58

59 **SECTION 3. CONSULTATION AND OUTREACH**

60 **A. Departments and Groups.** The following departments and groups participated in the development of
61 this Law:

- 62 1. Oneida Police Department; and
- 63 2. Members of the Oneida Nation High School Clan Council.

64 **B. Laws of the Nation.** The drafting of this analysis included a review of the following laws of the Nation:
65 Family Court law, Family Court Rules, Rules of Appellate Procedure, Oneida Judiciary Rules of
66 Evidence, and Oneida Judiciary Rules of Civil Procedure, Per Capita law, Garnishment law, Public Use
67 of Tribal Lands law, and Landlord-Tenant law.

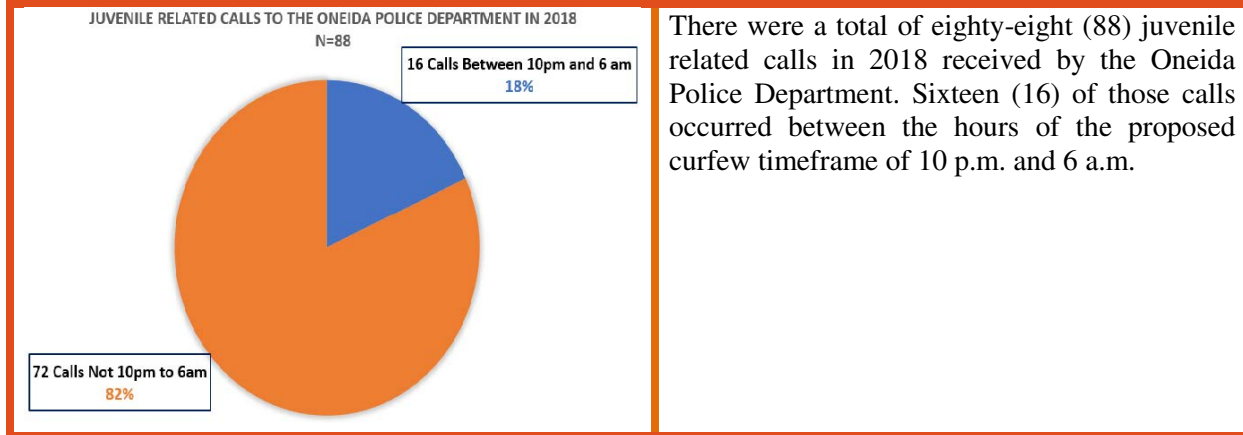
68 **C. Area and Tribal Laws.** The following curfew laws from surrounding municipalities and other tribal
69 communities were reviewed:

1.	Brown County
2.	Village of Hobart
3.	City of Green Bay
4.	City of De Pere
5.	Village of Ashwaubenon
6.	City of Seymour
7.	Village of Howard
8.	Village of Pittsfield
9.	Ho Chunk Nation
10.	Lac Du Flambeau Band of Lake Superior Indians
11.	Hoopa Valley Tribe
12.	Prairie Island Indian Community
13.	Ely Shoshone Tribe of Nevada

70
71 **The State of Wisconsin, Outagamie County and Town of Oneida do not have curfew laws in place.*
72

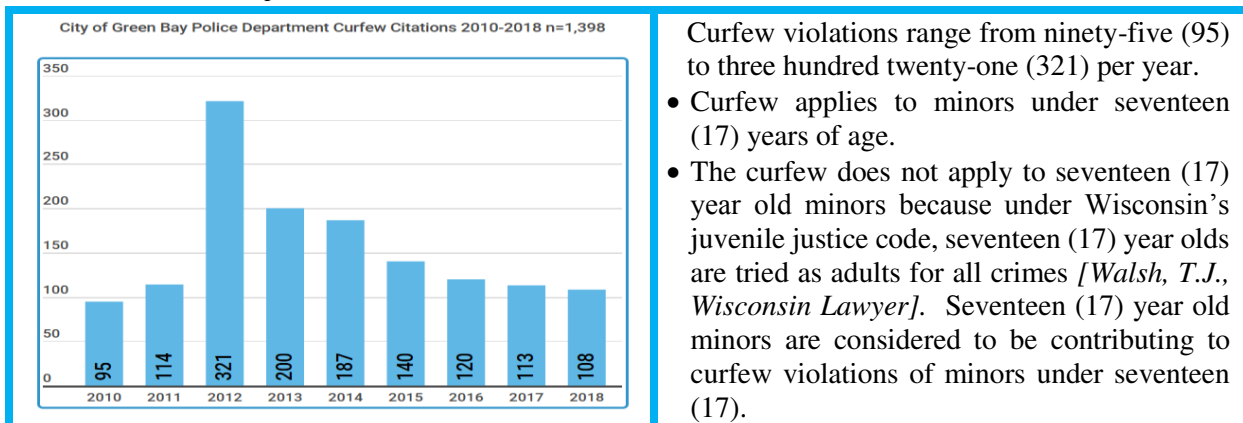
73 **D. Data.** A memorandum from the TAP Laws and Policy Subcommittee suggested that data related to
74 police interactions with youth ages seventeen (17) years and younger be requested from the Oneida
75 Police Department and other neighboring jurisdictions to provide a background for juvenile activity in
76 the area.

- 77 1. The Oneida Police Department does not currently enforce any curfew laws. The following is
78 a breakdown of juvenile related calls received by the Oneida Police Department in 2018 [Email
79 communication 05/06/2019, Eric Boulanger, Chief of Police, Oneida Police Department].



There were a total of eighty-eight (88) juvenile related calls in 2018 received by the Oneida Police Department. Sixteen (16) of those calls occurred between the hours of the proposed curfew timeframe of 10 p.m. and 6 a.m.

- 80
 81 2. The City of Green Bay has issued the following citations related to curfew violations since
 82 2010 [Email communication 05/03/2019, Michelle Belongie, Crime Analyst, Green Bay
 83 Police Department].



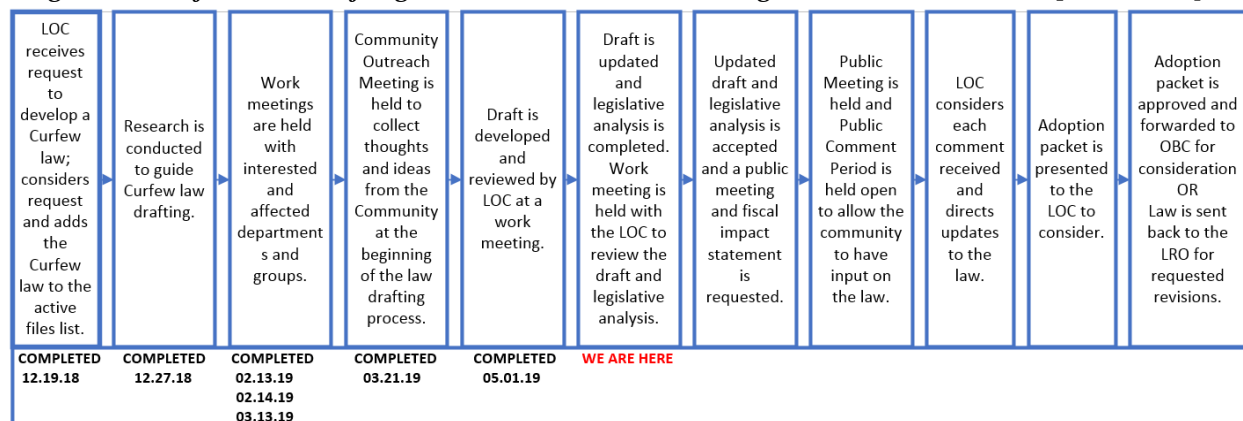
Curfew violations range from ninety-five (95) to three hundred twenty-one (321) per year.

- Curfew applies to minors under seventeen (17) years of age.
- The curfew does not apply to seventeen (17) year old minors because under Wisconsin’s juvenile justice code, seventeen (17) year olds are tried as adults for all crimes [Walsh, T.J., Wisconsin Lawyer]. Seventeen (17) year old minors are considered to be contributing to curfew violations of minors under seventeen (17).

84
 85 **SECTION 4. PROCESS**

86 A. Below is a diagram of the legislative process contained in the Legislative Procedures Act [1 O.C. 109]
 87 with some additional useful information. The proposed Curfew law has had a legislative analysis
 88 completed and is currently at the stage of requesting a work meeting to review the proposed draft and
 89 legislative analysis.


90 **Diagram 1. Curfew Law Drafting Process Contained in the Legislative Procedures Act [1 O.C. 109].**



C. The following meetings, work meetings, and outreach events took place at the time of the development of this legislative analysis:

- December 19, 2018: A request for a Curfew law was received from the TAP Laws and Policy Subcommittee, considered by the LOC and the Curfew law was added to the active files list.
- February 13, 2019: A work meeting was held with the LRO staff and the OPD.
- February 14, 2019: A work meeting was held with the LOC and the LRO staff.
- March 13, 2019: A work meeting was held with the LRO staff and the Oneida Nation High School Clan Council.
- March 21, 2019: A Community Outreach Meeting was held. Although no one attended this meeting; the opportunity was presented to the community to gather input on the development of the Law.
- May 1, 2019: A work meeting was held with the LOC and the LRO.
- May 15, 2019: A work meeting was held with the LOC and the LRO.
- June 5, 2019: The draft and legislative analysis are scheduled to be presented to the LOC for further consideration.

Community Outreach Event March 21, 2019



March 21, 2019
The LOC hosted a community pot luck to discuss a Curfew Law. While the community expressed interest in the event, no one attended the meeting. This highlights how collecting public comment is difficult.

LEGISLATIVE OPERATING COMMITTEE OUTREACH EVENT

COMMUNITY POT LUCK
WWW.ONEIDA-NSN.GOV/GOVERNMENT

Thursday, March 21, 2019, 5:00-7:30pm
Norbert Hill Center Cafeteria
7210 Seminary Rd., Oneida, Wisconsin

PROPOSED CURFEW LAW

This will be an exploratory meeting that will gather input from the community regarding issues and concerns related to the implementation of a curfew for minors seventeen (17) years old or younger, and the consequences that would result from violating the curfew.

OUTREACH
The Legislative Operating Committee (LOC) holds community outreach events in an effort to collect thoughts and ideas from the community at the beginning of the legislative process. This provides insight and ideas early and is a more efficient way of getting work done. Outreach events also provide the community with additional opportunities to share their thoughts with the LOC. When the LOC feels that the community may have a particular interest in proposed legislation these events are held in addition to the formal public meetings required by the Legislative Procedures Act.

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

SECTION 5. CONTENTS OF THE LEGISLATION

A. Purpose and Policy [3 O.C. 308.1]

- The purpose of the Law is to restrict access to public spaces by minors not accompanied by certain adults during established night and early morning hours, while imposing obligations and responsibilities upon adults to protect the health, safety and welfare of youth, adults and public property of the Nation. It is the policy of the Nation to support substance abuse prevention initiatives to minimize the opportunities of for minors to encounter harmful situations.

B. Jurisdiction [3 O.C. 308.4]

- Personal Jurisdiction.** This Law applies to: 1) all members of the Nation and those eligible for enrollment with the Nation, as well as members of other federally recognized tribes, 2) individuals and their households who lease, occupy or otherwise use fee land or trust land owned by the Nation or by individual members of the Nation; through consensual contract or other agreement, 3) individuals who have consented to the jurisdiction of the Nation through other consensual relationships with the Nation or Nation's entities, corporations or members of the Nation through contracts or agreements; and 4) any other facts that manifest consent to

jurisdiction consistent with federal law and policy including failure to object to the exercise of personal jurisdiction in a timely manner.

- i. In accordance with section 308.4-1(b), the Law also applies to individuals and their households who lease, rent, or occupy any home involved in a housing program with the Nation's Comprehensive Housing Division, including children who are not enrolled or eligible for enrollment with the Nation or any other federally recognized tribe. The Landlord-Tenant law requires all tenants of the Nation's housing programs to abide by the Nation's laws [6 O.C. 611.6-3(b)(3)].

- *Territorial Jurisdiction.* This Law applies to the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.

C. Curfew [3 O.C. 308.5]

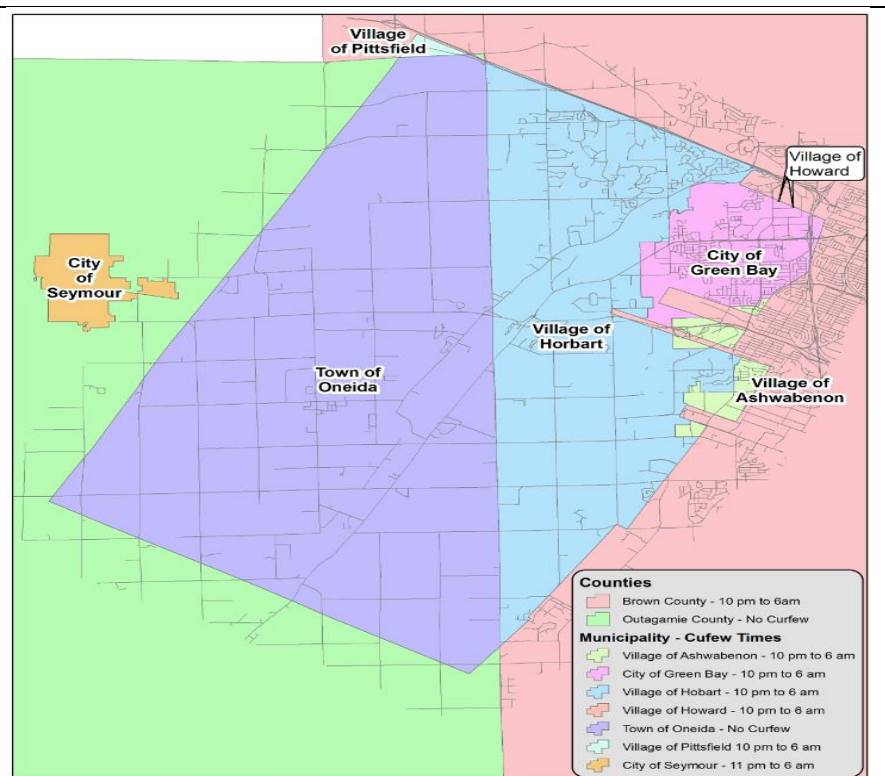
- The curfew is established from 10:00 p.m. to 6:00 a.m. for ages seventeen (17) years old or younger in any public space either on foot or in a vehicle driven or parked within the boundaries of the Reservation. No adult shall knowingly permit or fail to take action to prevent a minor to be in a public space after curfew unless an exemption is met [3 O.C. 308.5-3].

- i. Exemptions include common reasons minors would be out at night without the presence of their parent, guardian, or legal custodian such as traveling home from work, participating in cultural and sports activities chaperoned by an adult, and traveling home from the movies; as well as a discretionary measure for OPD to determine if the law has been violated or not.

- The map below demonstrates the curfew in the proposed Law is consistent with the curfew established by municipalities surrounding the reservation. Members of the Oneida Nation High School Clan Council indicated during a work meeting that Oneida's curfew should be similar to area curfew laws for consistency purposes.

This is a map of the reservation and surrounding jurisdictions with any curfew currently in place. The curfew timeframe of 10 p.m. to 6 a.m. in the proposed law is consistent with most jurisdictions near the reservation.

- The State of Wisconsin, Outagamie County, and the Town of Oneida all lack curfew laws. This means nearly half the reservation does not have any curfew law in place.
- OPD does not currently enforce any curfew laws of area jurisdictions [Verbal Communication, February 13, 2019].



155 **D. Enforcement of Curfew Violations** [3 O.C. 308.6]

- 156 • Oneida Police Department (OPD) officers may stop any minor suspected of violating this law.
157 OPD must ask, and the minor must provide, their name, age and reason for violating curfew. If
158 an OPD officer believes the Curfew law has been violated; the officer may take the minor into
159 custody and contact their parents, guardian or legal custodian to return the minor to their care
160 and custody. If the OPD officer cannot locate a parent, guardian or legal custodian, they may
161 find and release the child to an adult relative or other responsible adult willing and able to accept
162 the care and custody of the minor.
 - 163 i. The first time a minor is taken into custody results in a warning by OPD to both
164 the minor and the minor’s parent, guardian or legal custodian advising them of the
165 law and informing them that any additional violations of the curfew law may result
166 in a fine, community service, mandatory parenting program, mandatory family
167 counseling, or other penalties at the discretion of the Family Court [3 O.C. 308.6-
168 2].
 - 169 ii. Subsequent curfew violations that result in a minor being taken into custody by
170 OPD may result in the issuance of a citation which will require the attendance of
171 the minor and their parent, guardian, or legal custodian at a mandatory pre-hearing
172 with the Family Court. Additionally; subsequent violations of the Curfew law may
173 include a fine, mandatory or voluntary community service, mandatory parenting
174 program, mandatory family counseling, or any other penalty at the discretion of
175 the Family Court, as well as any conditional orders made by the Family Court [3
176 O.C. 308.6-3].
 - 177 iii. The Family Court may issue conditional orders at the mandatory pre-hearing until
178 the matter is resolved [3 O.C. 308.6-3(a)].

179 **E. Penalties of Curfew Violations** [3.O.C. 308.7]

- 180 • The following penalties may be issued to those that violate the law; focusing on specific
181 programs that aim to improve family dynamics and parenting; at the discretion of Family Court:
 - 182 i. Fines (community service may be a substitute for all or part of fines at the
183 discretion of the Family Court);
 - 184 1. The Law contains detailed procedures related to fines issued under this
185 Law [3 O.C. 308.7-1(a)]. More detail is provided in Section 7 of this
186 analysis.
 - 187 ii. Community service;
 - 188 1. The Law contains detailed procedures related to community service
189 requirements [3 O.C. 308.7-1(b)]. More detail is provided in Section 7
190 of this analysis.
 - 191 iii. Family counseling;
 - 192 iv. Parenting programs; and/or
 - 193 v. Any other penalty deemed appropriate by the Family Court.

194
195 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

- 196 **A. References to Other Laws.** The following laws of the Nation are referenced in this law and are required
197 to be followed:

- 198
- 199
- 200
- 201
- 202
- 203
- 204
- 205
- 206
- 207
- 208
- 209
- 210
- 211
- 212
- 213
- 214
- 215
- 216
- 217
- 218
- 219
- **Family Court** [8 O.C. 806]. The Family Court law delegates authority to the Family Court over all matters pertaining to the family, children and elders, except for probate matters [8 O.C. 806.4-1]. The Family Court has been delegated authority to make all orders and judgments as may be necessary to carry into effect the powers and jurisdiction of the Court [8 O.C. 806.8-1(c)]. The Family Court law governs the administration of law, justice, judicial procedures and practices by the Oneida Family Court as it pertains to Oneida families and/or children to create a knowledgeable, fair, and impartial forum for resolution of all family law matters that come before it. The Family Court is delegated authority under this law to hear contested citations, make conditional orders at the pre-hearing and issue penalties [3 O.C. 308.6-4(b) and 308.7-1]. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
 - **Per Capita** [1 O.C. 123]. The Family Court is considered an Oneida entity [1 O.C. 123.3-1(n)] under the Per Capita law and has the authority to pursue attachments of any money owed and any nonpayment of any citations issued under this law [3 O.C. 308.7-1(a)(3)]. An attachment means the citation is paid for from the debtors per capita payment using the process contained in the Per Capita law [1 O.C. 123.4-9(a)(2)].
 - **Garnishment** [2 O.C. 204]. The Family Court is considered an Oneida entity [2 O.C. 204.3-1(p)] under the Garnishment law as a branch of the Judiciary and has the authority to initiate a garnishment of employee wages to pursue payment from parties who have failed to make the required payments for issued citations in accordance with this law [3 O.C. 308.7-1(a)(3)]. Garnishment means the legal process in which the earnings of the debtor are required to be withheld by the Nation for a payment of a debt [2 O.C. 204.3-1(j)] using the process outlined in the Garnishment law.

220

221 **B. Other Laws of the Nation that Interact with this Legislation.** The following laws of the Nation

222 interact with this law and are required to be followed:

- 223
- 224
- 225
- 226
- 227
- 228
- 229
- 230
- 231
- 232
- 233
- 234
- 235
- 236
- 237
- 238
- 239
- 240
- **Family Court Rules** [8 O.C. 807]. The Family Court Rules supplement the Oneida Judiciary Rules of Civil Procedure and govern appearances in Court, provides rules of decorum while in Court, governs default judgments, as well as other aspects of the Family Court proceedings. The Family Court Rules will govern behavior during curfew citation hearings.
 - **Oneida Judiciary Rules of Civil Procedure** [8 O.C. 803]. The Oneida Judiciary Rules of Civil Procedure create a consistent set of rules that govern the process of civil actions of the Family Court and the Judiciary. The Oneida Judiciary Rules of Civil Procedures will govern hearings for all curfew citation hearings.
 - **Oneida Judiciary Rules of Evidence** [8 O.C. 804]. The Oneida Judiciary Rules of Evidence apply to proceedings held in the Family Court, including curfew citation proceedings, and govern the rules related to evidence presented to the Court.
 - **Rules of Appellate Procedure** [8 O.C. 805]. The Rules of Appellate Procedure govern the process for anyone who wishes to contest the determination of a lower Court's decision to the Nation's Court of Appeals and will govern appeals the Family Court's decisions. All orders of the Family Court are appealable to the Court of Appeals [8 O.C. 806.6].
 - **Landlord-Tenant** [6 O.C. 611]. This law applies to all individuals (tenants) granted the right to use or occupy a premises pursuant to a rental agreement with the Oneida Nation. All tenants who are required to follow all laws of the Nation [6 O.C. 611.6-3(b)(3)], including

241 the Curfew law; even if the tenant is not enrolled or eligible for enrollment with the Oneida
242 Nation or enrolled with another federally recognized tribe [3 O.C. 308.4-1].
243

244 SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 245 A. The Law will be enforced by OPD utilizing existing resources.
- 246 B. Minors and parents, guardians and/or legal custodians who are issued citations under this law may
247 contest the citation at the mandatory citation pre-hearing at the Family Court [3 O.C. 308.6-3(c)].
- 248 C. Implementation of this Law is as follows:
- 249 • OPD is responsible for implementing and enforcing this law and issuing citations which may
250 include fines and other penalties [3 O.C. 308.6-3].
 - 251 • The Family Court may, at its discretion, order penalties under this law to both minors and
252 adults [3 O.C. 308.7]. Penalties include fines, community service, parenting programs, family
253 counseling and any other penalties deemed appropriate by the Family Court.
 - 254 i. The Family Court may allow community service to be substituted for fines [3
255 O.C. 308.7-1(a)(5)].
 - 256 ii. Community service may be ordered by the Court in lieu or in addition to a fine
257 [3 O.C. 308.7-1(b)]. The individual will be responsible for finding his or her
258 community service and getting approval from the Court [3 O.C. 308.7-
259 1(b)(1)]. The Family Court will provide a written statement of the
260 requirements of the community service assignment including the number of
261 hours, the timeframe for completion, how hours will be reported and any other
262 relevant information and the requirement that community service is monitored
263 [3 O.C. 308.7-1(b)(2) and (3)].
 - 264 iii. Family counseling or parenting programs may be required by the Family Court
265 [3 O.C. 308.7-1(c)].
 - 266 1. Oneida Family Support Services Department offers family
267 counseling, parenting classes and other programs. These programs
268 may be an option for violators of this Law to fulfill the penalties issued
269 by the Family Court.
 - 270 a. Clientele of services offered by this Department are typically
271 determined by enrollment or eligibility for enrollment with
272 the Nation. Consideration is given to significant others or
273 family members who are not eligible for enrollment
274 [<https://oneida-nsn.gov/resources/child-family-services/>].
 - 275 2. Those who violate the Law may seek other services offered outside of
276 the Oneida community to fulfill the penalties issued by the Family
277 Court.
 - 278 • The OBC is responsible for adopting a fine schedule by resolution that determines specific
279 fine amounts for violations of this law [3 O.C. 308.7-1(a)].

281 SECTION 8. OTHER CONSIDERATIONS

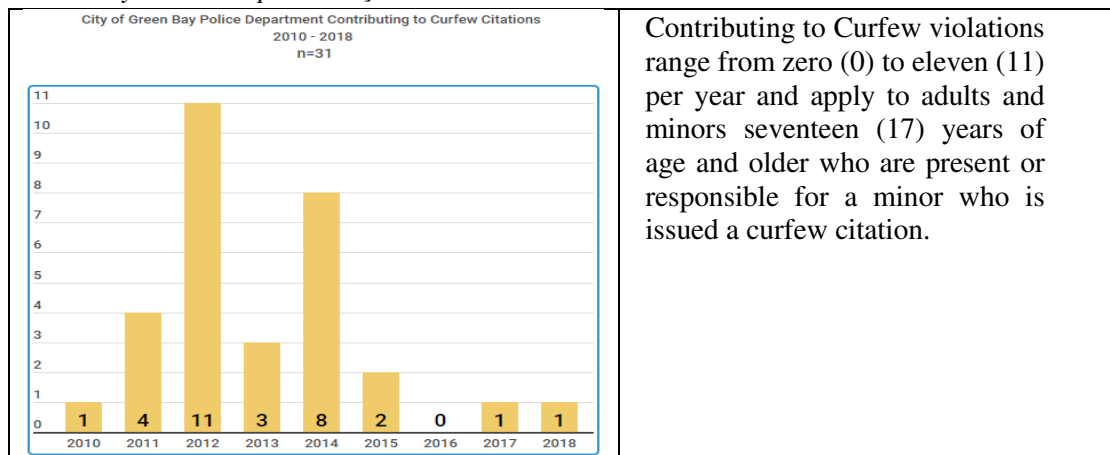
- 282 A. **Communication Plan.** The TAP Laws and Policy Subcommittee recommended a communication plan
283 be developed related to the Curfew law to educate the community [TAP Subcommittee

284 *Recommendation - Laws/Policy Memorandum, 08/14/2018*]. The LOC may want to consider assigning
285 this task through the adopting resolution for this law.

- 286 • The Oneida High School Clan Council recommended creating a communication plan during a
287 meeting held on March 13, 2019 regarding their thoughts and opinions on a potential curfew
288 law. The Clan Council suggested that someone should visit the schools and the Clan Council
289 to educate the students. Additionally, the Clan Council suggested that they could then make a
290 flyer regarding the law and discuss with the younger students at the Oneida Nation Elementary
291 School; using high school students to help communicate the importance of the law and how it
292 works.

293 **B. Contributing to Curfew.** The City of Green Bay issues a “Contributing to Curfew” citation to
294 parents, guardians, legal custodians and other adults. The law already allows for citations to be
295 issued to a parent, guardian, or legal custodian who knowingly permits or fails to take action to
296 prevent the minor from violating curfew. LOC may consider including other adults who are not a
297 parent, guardian or legal custodian in the Curfew law, and allowing OPD to issue a contributing to
298 curfew citation when these adults are present with minors who violate the Curfew law.

299 The City of Green Bay has issued the following citations related to contributing to curfew
300 violations since 2010. [*Email communication 05/03/2019, Michelle Belongie, Crime Analyst,*
301 *Green Bay Police Department*]:



302
303 **C. Citations law.** A citation for a violation of this law will be processed in accordance with the procedure
304 contained in the Nation’s laws and policies governing citations [*3 O.C. 308.6-3(b)*].

- 305 • There are currently no laws of the Nation governing citations. There is a Citations law on the
306 LOC’s active files list that is currently being developed at the same time as this Curfew law.

307 **D. Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.

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

316

317 ***Research Citations***

318 Grossman, E.R. and Miller, N.A. (2015). A Systematic Review of the Impact of Juvenile Curfew Laws
319 on Public Health and Justice Outcomes. *Am J Prev Med.* 49(6): 945-951.
320 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4656116/>

321
322 McDowell, D. Loftin C. and Wiersema, B. (2009). The Impact of Youth Curfew Laws on Juvenile Crime
323 Rates.
324 [https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)
325 [_Crime_Rates](https://www.researchgate.net/publication/249718752_The_Impact_of_Youth_Curfew_Laws_on_Juvenile_Crime_Rates)

326
327 Myers, D.L. (2016). Juvenile curfew laws: A consideration of something that “doesn’t work”.
328 EBPSOCIETY: Evidence Based Society.
329 <https://www.ebpsociety.org/blog/education/206-juvenile-curfew-laws>

330
331 Office of Juvenile Justice and Delinquency Prevention. Juvenile Justice Reform Initiatives in the States
332 1994-1996.
333 https://www.ojjdp.gov/pubs/reform/ch2_c.html

334
335 Walsh, T.J. (2019). Adults Only: Returning 17 Year Olds to Juvenile Court. Wisconsin Lawyer.
336 <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=23659>

337
338
339
340

341

May 28, 2019 Legislative Operating Committee E-Poll

Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting



Tue 5/28/2019 1:32 PM

LOC

E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

i This is the most recent version, but you made changes to another copy. Click here to see the other versions.
Vote by clicking Vote in the Respond group above.
This message was sent with High importance.

 2019 07 11 Election Law Amendments - Stipend Update Memo from LOC to GTC SIGNED.docx.pdf 3 MB	
 2019 07 11 Election Law Presentation Slides.pdf 468 KB	
 2019 01 21 Election GTC Materials.pdf	

Good Afternoon Legislative Operating Committee,

This e-mail serves as the e-poll for approval of the Election law amendments materials for the July 11, 2019 General Tribal Council meeting.

EXECUTIVE SUMMARY

At the January 21, 2019, Special General Tribal Council (“GTC”) meeting the final proposed amendments to the Election law were presented to the GTC for the consideration of adoption. After some discussion on the proposed amendments, and a motion to adopt, the GTC ultimately adopted a motion to *“table this item until the stipend issue for Election Board members is answered.”*

Since the January 21, 2019, GTC meeting, the Legislative Operating Committee has developed a memorandum which provides answers as to the stipends members of the Election Board receive, as well as information on how the stipends of Election Board members relate to the proposed amendments to the Election law.

With the 2020 General Election fast approaching, the Legislative Operating Committee determined it is critical for GTC to once again consider the adoption of amendments to the Election law so that any amendments can be implemented for the 2020 General Election. For that reason, the Legislative Operating Committee determined this issue should be placed on the July 11, 2019, semi-annual GTC meeting agenda for consideration.

The Oneida Business Committee will be holding a special meeting on June 3, 2019, to approve the materials for the July 11, 2019, GTC meeting packet. The Oneida Business Committee has imposed a deadline of May 30, 2019, for inclusion on the June 3, 2019, special Oneida Business Committee meeting agenda.

An e-poll is necessary for this matter because the next Legislative Operating Committee meeting is scheduled for June 5, 2019, which is past the May 30, 2019, deadline for inclusion in the June 3, 2019, special Oneida Business Committee meeting packet.

The materials that will be included in the July 11, 2019, GTC meeting packet for the Election law amendments include:

- Memorandum from the Legislative Operating Committee to the GTC providing an update on the Election law amendments as it relates to the stipend question;
- Updated Election law amendments PowerPoint presentation slides;
- Tabled materials from the January 21, 2019, GTC meeting packet regarding the Election law amendments including:
 - Adoption memorandum;
 - Resolution;
 - Statement of Effect;
 - Legislative Analysis;
 - Redline Draft;
 - Clean Draft;
 - Fiscal Impact Statement;
 - PowerPoint presentation slides.

REQUESTED ACTION

Approve the Election law amendments materials and forward to the Oneida Business Committee for inclusion in the July 11, 2019, General Tribal Council meeting packet materials.

DEADLINE FOR RESPONSE

May 29, 2019 at 1:00 p.m.

All supporting documentation has been attached to this email for your convenience.

E-POLL RESULTS:

The e-poll was approved by David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, and Daniel Guzman King.



Tue 5/28/2019 1:40 PM

David P. Jordan

Re: E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen; David P. Jordan

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve



Tue 5/28/2019 2:08 PM

Jennifer A. Webster

Re: E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve,
Jenny

Sent from my Samsung Galaxy smartphone.



Tue 5/28/2019 2:15 PM

Kirby W. Metoxen

RE: E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve

Kirby Metoxen

Kirby Metoxen, Councilman

kmetox@oneidanation.org

Work Phone: (920) 869-4441

Fax: (920) 869-4040



A good mind. A good heart. A strong fire.



Tue 5/28/2019 2:46 PM

Ernest L. Stevens

RE: E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To LOC; Daniel P. Guzman; David P. Jordan; Jennifer A. Webster; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve



Tue 5/28/2019 5:57 PM

Daniel P. Guzman

Re: E-POLL REQUEST: Approval of the Election Law Amendments Materials for the July 11, 2019 GTC Meeting

To LOC; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen

Cc Cathy L. Bachhuber; Fawn J. Billie; Jessica L. Wallenfang; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



TO: General Tribal Council
 FROM: David P. Jordan, Legislative Operating Committee Chairperson
 DATE: July 11, 2019
 RE: Election Law Amendments Update

Summary

In November of 2017 the General Tribal Council (“GTC”) directed that amendments to the Election law be brought back for consideration and action. Since then the topic of Election law amendments has come before the GTC for discussion and consideration multiple times. With the 2020 General Election approaching, it has become critical that the GTC consider the adoption of the proposed amendments to the Election law if the GTC wants the amendments implemented before the 2020 General Election.

The proposed amendments to the Election law and any proposed changes to an Election Board member’s stipend are separate issues that would have to be addressed by amendments to two (2) separate documents. For that reason, the Legislative Operating Committee encourages the GTC to consider the adoption of the amendments to the Election law today, and then address the Election Board member stipends as a separate issue, so that any adopted changes to the Election law can be implemented before the 2020 General Election.

History of the Election Law Amendments

At the November 12, 2017, Special GTC meeting, the GTC 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 and action by the GTC during calendar year 2018.*”

At the October 28, 2018, Special GTC 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 GTC 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.*”

After the October 28, 2018, GTC meeting the Legislative Operating Committee continued to move forward with the development of amendments to the Election 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. The public comment period was held open until November 16, 2018. The Legislative Operating Committee reviewed and considered all comments received during the public comment period, and any changes based on the comments received were incorporated into

the final draft of the proposed amendments to the Election law. Those considerations may be reviewed by going to <https://oneida-nsn.gov/government/register/public-meetings/>. The proposed Election law amendments were approved by the Legislative Operating Committee on December 5, 2018, and then accepted by the Oneida Business Committee on December 12, 2018.

At the January 21, 2019, Special GTC meeting the final proposed amendments to the Election law were presented to the GTC for the consideration of adoption. After some discussion on the proposed amendments, and a motion to adopt, the GTC ultimately adopted a motion to “*table this item until the stipend issue for Election Board members is answered.*”

This memorandum serves as a response to the question regarding the Election Board stipends that was asked by the GTC during the January 21, 2019, special meeting.

Election Board Stipends for Service Provided During General Tribal Council Meetings

In addition to the one hundred dollars (\$100) GTC meeting stipend as provided by the General Tribal Council Meeting Stipend Payment Policy, members of the Election Board currently receive an additional stipend of one hundred dollars (\$100) for attending GTC meetings and conducting all counting of votes by the GTC during that meeting.

As early as the year 2000, at the request of the Nation’s Chairperson, the Election Board began attending GTC meetings to take over the responsibility of counting votes during meetings. Due to the fact that the Election Board was required to attend the GTC meetings and perform an official duty it was determined the Election Board may be paid a stipend equal to the regular meeting stipend, which was fifty dollars (\$50) at the time.

The GTC adopted resolution GTC-09-13-03-B which adopted the Fiscal Year 2004 budget. The Fiscal Year 2004 budget included an increase of the Election Board’s stipend from fifty dollars (\$50) to one hundred dollars (\$100).

Today, the Boards, Committees, and Commissions law provides for stipends for the Election Board. The Boards, Committees, and Commissions law requires that the Oneida Business Committee set stipend amounts by resolution. [1 O.C. 105.13-2]. Members of a board, committee, or commission of the Nation are eligible to receive a stipend for various activities including any miscellaneous action deemed appropriate by the Oneida Business Committee and included in the resolution which sets stipend amounts. [1 O.C. 105.13-7].

The Oneida Business Committee set forth specific stipend amounts that a member of a board, committee, or commission of the Nation are eligible to receive through the adoption of BC-09-26-18-D, which was amended through BC-05-08-19-B. Resolution BC-05-08-19-B provides that members of the Election Board are eligible to receive a miscellaneous stipend of one hundred dollars (\$100) for attendance and service provided at a GTC meeting.

The Oneida Business Committee is required to periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the stipend resolution. [1 O.C. 105.13-2].

General Tribal Council's Consideration of "Double Dipping"

On August 11, 2007, the GTC adopted a directive that a stipend of one hundred dollars (\$100) be paid to any member of the Nation who attends a GTC meeting, is eligible to vote, and stays until the end of the meeting effective in calendar year 2008 and for all time.

Since then, the GTC has considered whether an individual should be able to collect more than that GTC meeting stipend during a GTC meeting. Although the GTC has not considered the issue of "double dipping" as it relates to the members of the Election Board, the GTC has previously considered the issue of "double dipping" as it relates to employees of the Nation.

In this case, "double dipping" refers to an employee of the Nation who is required to be at the GTC meeting in the capacity of his or her employment and therefore collects his or her wage for that time while also collecting the GTC meeting stipend. An employee collecting a wage for providing a service during a GTC meeting in addition to the GTC meeting stipend is similar to an Election Board member collecting a stipend for providing the service of counting votes during a GTC meeting in addition to the GTC meeting stipend.

At the July 2, 2012, semi-annual GTC meeting the GTC discussed the 2011 referendum question, "*Should the Oneida Business Committee disallow employees of the tribe, who are required to be at the GTC in the capacity of their job, from the [GTC Meeting] stipend?*" A motion was made during this meeting to revise the General Tribal Council Meeting Stipend Payment Policy to "*disallow employees of the Tribe, who are required to be at the GTC in the capacity of their job, from the stipend.*" The GTC rejected this motion determining that employees of the Nation should be allowed to still receive a GTC meeting stipend if required to be at the GTC meeting in the capacity of his or her employment.

It is the policy of the Nation to pay eligible members a stipend for attending a GTC meeting at which a quorum is established and maintained and where official business is conducted. [1 O.C. 111.1-1]. Any member of the Nation who meets the following requirements shall receive a stipend for attending a GTC meeting if a quorum is established:

- The individual is a qualified voter in accordance with the Nation's Constitution;
- The individual registers no later than fifteen (15) minutes after the published starting time of the meeting by checking in at a registration table, filling out any required forms, and providing a valid Tribal or state issued picture identification card;
- The individual is present for the entire meeting, from the time the meeting is called to order until the meeting adjourned; and
- The individual checks out and provides a valid Tribal or state issued picture identification card after the meeting ends. [1 O.C. 111.4-1, 111.4-2(a)-(d)].

Both the General Tribal Council Meeting Stipend Payment Policy and the GTC's July 2, 2012, actions demonstrate that an individual is not required to decline his or her GTC meeting stipend when eligible based on the fact that the individual is also collecting a wage for a service he or she may be providing during the GTC meeting in the official capacity of his or her employment.

The act of collecting a GTC meeting stipend as well as a wage for a service provided during the GTC meeting in the capacity of an individual's official duty is not considered "double dipping" because the stipends serve different purposes.

This same determination can then be applied to members of the Election Board and the stipend a member is eligible to receive for the service of counting votes the Election Board provides during a GTC meeting.

Relationship Between Stipends and the Proposed Election Law Amendments

There is a limited relationship between the proposed amendments to the Election law and the specific stipends an Election Board member may collect.

The proposed amendments to the Election law only provide that Election Board members shall receive a stipend in accordance with the Nation's laws, policies, and resolutions governing boards, committees, and commissions. [1 O.C. 102.4-10].¹ The proposed amendments to the Election law do not address whether an Election Board member is eligible to receive a stipend for services rendered at a GTC meeting, or what that specific stipend amount may be if a member of the Election Board is eligible to receive such a stipend.

In accordance with the requirement of the Boards, Committees, and Commissions law that the Oneida Business Committee set stipend amounts by resolution, it is resolution BC-05-08-19-B which specifically authorizes members of the Election Board the ability to receive a stipend of one hundred dollars (\$100) for attendance and service provided at a GTC meeting. [1 O.C. 105.13-2].

Therefore, adoption of the proposed amendments to the Election law would not address or affect the Election Board's eligibility to receive a stipend of one hundred dollars (\$100) for attendance and service provided at GTC meeting. What stipends the Election Board may receive, and the specific amounts of those stipends, is a separate issue than the consideration of the proposed amendments to the Election law. In order to address the various stipends an Election Board member is eligible to receive, amendments would have to be made to resolution BC-05-08-19-B.

The adoption of the proposed amendments to the Election law do not prohibit the GTC from providing direction to the Oneida Business Committee to amend resolution BC-05-08-19-B to address stipends of the Election Board.

Conclusion

The proposed amendments to the Election law do not address the stipend a member of the Election Board is eligible to receive for attending a GTC meeting and providing the service of counting votes. Oneida Business Committee resolution BC-05-08-19-B is the document which provides that

¹ The proposed amendments to the Election law also provide that an Election Board member may 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, but this specific stipend does not apply to a discussion of the stipend an Election Board member collects during a General Tribal Council meeting. [1 O.C. 102.4-10].

a member of the Election Board may receive a stipend of one hundred dollars (\$100) for attendance and service provided at a GTC meeting of the Nation.

Due to the fact that the adoption of the proposed Election law amendments is a separate issue than Election Board member stipends, the Legislative Operating Committee encourages the GTC to consider the adoption of the Election law amendments today, so that any adopted changes could be implemented for the 2020 General Election.

Requested Action

Adopt the Resolution: Amendments to the Election Law.

Election Law Amendments

Presentation to GTC by:
Legislative Operating Committee

July 11, 2019

Background – GTC Actions

- 11/12/2017
 - 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.”
- 10/28/2018
 - Motion by Diane Quella to “adjourn and forward the remaining items... Update regarding Election Law amendments, to the 2019 Annual meeting in January.”
- 1/21/2019
 - Motion by Gina Powless to “table this item until the stipend issue for Election Board members is answered.”

Election Board Stipends

- Since at least the year 2000, the Election Board has been responsible for counting votes during GTC Meetings.
- Election Board receives a stipend for performing these duties, in addition to the regular GTC Meeting Stipend.
- On July 2, 2012, GTC discussed the issue of “double-dipping” and decided that employees required to be at GTC meetings in the capacity of their job should be allowed to receive the GTC Meeting Stipend in addition to their regular wage.

Election Board Stipends

- Election Board members currently receive a stipend of \$100 for service provided at GTC meetings.
- Election Board stipends are set by Resolution BC-05-08-19-B in accordance with the Boards, Committees and Commissions Law.
- Adoption of Election Law amendments does not impact Election Board stipends or prevent changes to stipends in the future.

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.

Yaw^ko



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.		

1
2

3 **SECTION 2. LEGISLATIVE DEVELOPMENT**

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

30 **SECTION 3. CONSULTATION AND OUTREACH**

- 31 A. The Legislative Operating Committee (LOC) held a work meeting with the Election Board on January
32 25, 2018 to discuss the board’s ideas for potential amendments. In addition, the LOC reviewed
33 suggested amendments submitted by the Trust Enrollment Department.
- 34 B. The following documents were reviewed in the drafting of this analysis: The Nation’s Constitution, the
35 Election Board’s bylaws and standard operating procedures, Election Board Final Election Reports,
36 relevant Oneida Judiciary decisions, and the November 12, 2017 GTC Meeting minutes and materials.
- 37 C. The following laws were reviewed in the drafting of this analysis: Zoning and Shoreland Protection
38 Law, Open Records and Open Meetings Law, and Boards, Committees and Commissions Law. In
39 addition, the following Election Laws from other tribes were reviewed: Ho Chunk Election Code,
40 Menominee Nation Election Code, Forest County Potawatomi Election Code, and Stockbridge Munsee
41 Election Ordinance.
42

43 **SECTION 4. PROCESS**

- 44 A. Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- 45 B. The law was added to the Active Files List on December 6, 2017.
- 46 C. At the time this legislative analysis was developed, the following work meetings were held/scheduled
47 regarding the development of this law and legislative analysis:
48
49 ▪ January 25, 2018: Work Meeting with Election Board
50 ▪ March 16, 2018: LOC Work Meeting
51 ▪ March 19, 2018: LOC Work Meeting

- 52 ▪ March 23, 2018: LOC Work Meeting
- 53 ▪ March 29, 2018: LOC Work Meeting
- 54 ▪ April 2, 2018: LOC Work Meeting
- 55 ▪ April 19, 2018: LOC Work Meeting
- 56 ▪ May 2, 2018: LOC Work Meeting
- 57 ▪ June 20, 2018: LOC Work Meeting
- 58 ▪ July 12, 2018: LOC Work Meeting
- 59 ▪ August 6, 2018: LOC Work Meeting
- 60 ▪ August 28, 2018: LOC Work Meeting
- 61 ▪ September 5, 2018: LOC Work Meeting
- 62 ▪ October 8, 2018: LOC Work Meeting
- 63 ▪ October 17, 2018: LOC Work Meeting
- 64 ▪ November 16, 2018: LOC Work Meeting

66 **SECTION 5. CONTENTS OF THE LEGISLATION**

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

- 71 ▪ **Term Limits.** This law eliminates term limits for members of the Election Board. Election
72 Board members are elected by the membership. Currently, Election Board members are
73 limited to two consecutive three-year terms. After serving two terms, Board members must sit
74 out a term before they can run again [*see Election Law, 1 O.C. 102.4-2*]. Now, Election Board
75 members may run for as many terms as they wish.
- 76 ○ **Comparison to other Oneida Boards, Committees and Commissions.** Most other entities
77 of the Nation do not have term limits. For example, other elected entities such as Land
78 Commission, Land Claims Commission, Gaming Commission and Trust Enrollment
79 Committee do not have term limits. Currently, the only other elected board of the Nation
80 with term limits is Oneida Nation Commission on Aging (ONCOA). The Police
81 Commission, an appointed board, has term limit of no more than three consecutive five-
82 year terms.
- 83 ○ **Comparison to Election Boards of other tribal nations:** Menominee Nation, Potawatomi
84 Nation, Ho Chunk Nation and Stockbridge Munsee have appointed Election Boards which
85 do not have term limits. However, the appointing body has control over who is appointed
86 and for how long.
- 87 ○ **Advantages and Disadvantages of Term Limits:** Potential advantages of term limits are
88 that they may bring new ideas and fresh perspectives to an elected body and give more
89 individuals an opportunity to participate in public service. Potential disadvantages of term
90 limits are that they deprive voters of the ability to elect the candidate of their choice and
91 that the elected body loses experienced members and institutional knowledge.
- 92 ▪ **Recusal.** Election Board members must recuse themselves from any pre-election, election day
93 and post-election activities if he or she is a petitioner, applicant or candidate in any election,
94 or if there is otherwise a conflict of interest [*see 102.4-3*].
- 95 ○ **Immediate Family:** A new provision has been added clarifying that Election Board
96 members must recuse themselves if an immediate family member is a petitioner, applicant
97 or candidate. This requirement was previously located in the Election Board's bylaws, but
98 has been added directly into the law to strengthen and clarify this requirement [*see 102.4-*
99 3(b)].
- 100 ○ **Definition of Immediate Family Members.** An immediate family member is defined as:
101 an individual's father, mother, grandparent, sister, brother, wife, husband, daughter, son,

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

- 105 ○ **Recusal for Judiciary.** Recusal provisions for members of the Nation’s Judiciary are
106 located in the Oneida Tribal Judiciary Canons of Judicial Conduct. The canons state that a
107 judge shall withdraw from any matter where the judge has or could be perceived to have a
108 conflict of interest. The canons go on to state that this includes personal, professional, or
109 fiduciary relationships between the Judge or an immediate family member of the Judge
110 [see Oneida Tribal Judiciary Canons of Judicial Conduct 8 O.C. 802, Section 2.2].

- 111 ■ **Securing Ballots and Voting Equipment.** A new provision has been added that requires the
112 Election Board to ensure that election polling equipment and ballots are maintained in a locked
113 and secured area when they are not being used for an Election. This is added to clarify that it
114 is Election Board’s responsibility to secure the equipment, and that failure to do so is a
115 violation of this law [see 102.4-8(a)].

- 116 ■ **Standard Operating Procedures.** The Election Board will be required to develop and follow
117 standard operating procedures (SOPs) regarding election activities and responsibilities. Any
118 updates to their standard operating procedures must be presented to the Business Committee
119 as information. For more information regarding the Election Board’s current SOPs, see
120 Section 9 “Other Considerations” in this analysis. [see 102.4-8(b)].

- 121 ■ **Enforcement and Removal.** A new provision has been added regarding Enforcement, which
122 replaces the previous “Removal” section [see 102.4-12]. Election Board members who violate
123 the Election Law may be subject to:

- 124 ○ **Removal:** Election Board members who violate the Election Law may be removed in
125 accordance with the Removal Law. A member who is removed from the Election Board
126 will be prohibited from serving on the Election Board for three (3) years.
- 127 ○ **Termination of Appointed Members.** Election Board members who were appointed to fill
128 vacancies on the board may have their appointments terminated by the Oneida Business
129 Committee in accordance with the Boards, Committees and Commissions Law.
- 130 ○ **Sanctions and Penalties.** Election Board members may be subject to sanctions and
131 penalties in accordance with laws of the Nation regarding sanctions and penalties. The
132 Legislative Operating Committee (LOC) is currently drafting a Sanctions and Penalties
133 Law to increase accountability among elected and appointed officials of the Nation, which
134 will include members of the Election Board. At the time this analysis was drafted, the LOC
135 intends to present a Sanctions and Penalties Law to GTC for consideration once the draft
136 is complete and all legislative requirements are met.

- 137 **B. Referendums.** This section describes the process for referendums. Referendum questions may be
138 submitted by qualified voters at a caucus prior to an election. The following revisions have been
139 made to the referendum process to ensure a streamlined process: [see 102.7]

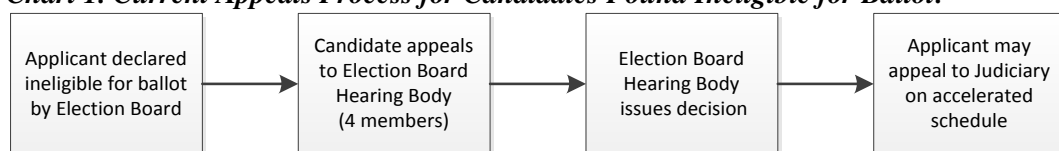
- 140 ■ **Standard Form.** A provision has been added requiring the Secretary to provide a standard form
141 to submit referendum questions.
- 142 ■ **Yes or No Questions.** In addition, referendum questions must be written in the form of a “yes
143 or no” question. The intent is to ensure that the questions are written clearly for the voter to
144 answer.

- 145 **C. Candidate Eligibility.** This section describes the requirements to be a candidate. The following
146 revisions have been made to this section [see 102.9]:

- 147 ■ **Applications.** This provision clarifies that all candidates, including those nominated at caucus,
148 must fill out and turn in a completed application packet. Packets will be available in the BC
149 Support Office. In addition, the Election Board’s current practice is to provide application
150 packets at the caucus for those that have been nominated. The purpose of requiring the

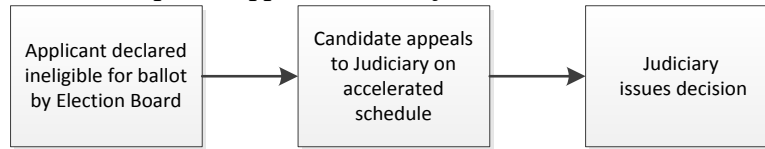
- 151 application form is to ensure that candidates meet the eligibility requirements for the office
152 they are seeking [see 102.9-4].
- 153 ■ **Proof of Minimum Eligibility Requirements.** Applicants will now be required to attach proof
154 that they meet the requirements for the position they are running for. The Election Board must
155 include a list of the required documents on the application so that applicants are aware of what
156 they need to submit. If an applicant does not submit the required documentation or does not
157 completely fill out the application form, they will be disqualified by the Election Board [see
158 102.9-4(e)]. If an applicant feels they were unfairly disqualified, they can appeal to the
159 Judiciary.
 - 160 ○ *Example:* An example of required documentation is proof of residency for positions that
161 require members to reside in Brown or Outagamie County or copies of degrees and
162 transcripts for positions that require a degree.
 - 163 ■ **Applying for More than One BC or Judiciary Position.** Under the current law, applicants
164 cannot run for more than one Business Committee or Judicial position. For example, an
165 applicant cannot file to run for both BC Chairperson and Councilperson in the same election.
166 However, the current law doesn't state how the Election Board should handle this situation
167 when it occurs. This has led to cases in the Oneida Judiciary, where the Judiciary noted: "the
168 statute is silent as to whether a person has the opportunity to cure any defects and, if so, how
169 much time is afforded to cure such defects. Furthermore, the statute says nothing about
170 disqualifying a candidate from the election entirely who runs for more than one elective office"
171 [see *Metoxen v. Election Board 17-AV-007*]. Therefore, the following new provisions have
172 been added [see 102.9-5]:
 - 173 ○ **Include Restriction in Application Packet & Announce at Caucus.** The restriction on
174 running for multiple BC or Judicial offices will be included in the application packet and
175 read aloud at the caucus, to ensure that all potential candidates are aware before applying
176 [see 102.9-5(a)].
 - 177 ○ **Process If an Applicant Applies For More Than One BC or Judiciary Position:** If an
178 individual applies to run for more than one BC or Judiciary office, the Election Board will
179 only accept the first application that the individual submitted. Any additional applications
180 from that individual for other BC or Judicial offices will be rejected. The BC Support
181 Office will be required to timestamp all applications in the order they are received, and the
182 time stamp will be used to determine which application the individual filed first.
 - 183 ○ Currently, the Election Board reports that they attempt to contact the applicant to determine
184 which office they want to run for. However, the Election Board has not always been able
185 to reach applicants in time for the deadline. The purpose of this new process is to provide
186 clear guidelines to applicants, the Election Board, and the Judiciary. It places responsibility
187 on applicants to follow the law while ensuring that applicants are not disqualified from the
188 ballot entirely.
 - 189 ■ **Transfer of Hearing Authority to Judiciary.** This law removes the Election Board's hearing
190 body authority and transfers it to the Judiciary. In the current law, when an applicant is found
191 ineligible to be on the ballot by the Election Board, they can appeal that decision to a hearing
192 body made up of four (4) members of the Election Board. Instead, applicants will now appeal
193 directly to the Judiciary on an accelerated schedule [see 102.9-8].

194
195 **Chart 1. Current Appeals Process for Candidates Found Ineligible for Ballot:**



198
199
200

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



201
202

- *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.

203
204
205
206
207
208
209

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].

210
211
212

- **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].

213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236

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].

237
238
239

- **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].

240
241
242
243

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

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

262 **Chart 3. Current Election Timeline:**

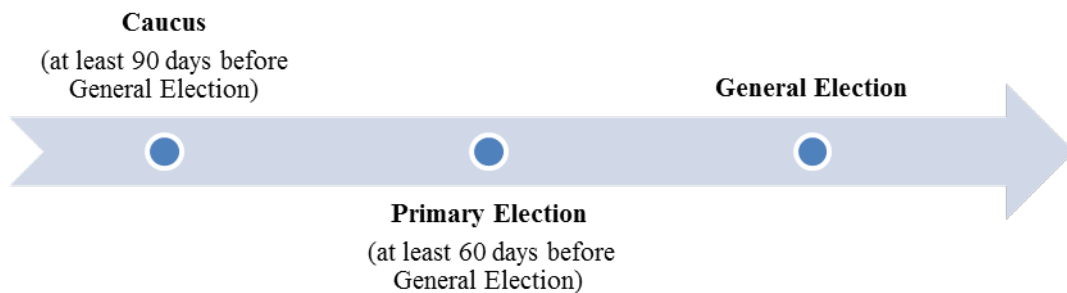
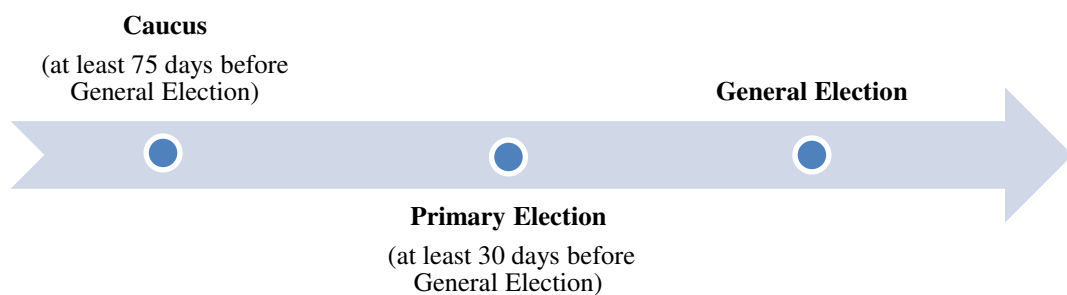


Chart 4. Proposed Election Timeline:



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

- 272 ▪ *Nominating Candidates by Motion.* More detail has been added to the law to reflect the current
273 caucus process. The law clarifies that each position will be opened and closed for nomination
274 by motion during the caucus: [see 102.13-2]
 - 275 ○ *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 Tsyunhehkwa 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

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

328 **M. Voter Assistance.** The Election Law has been clarified to state that a voter with a disability or other
329 impairment can request assistance from a member of the Election Board or any other qualified voter
330 of their choosing. A qualified voter is an enrolled member of the Oneida Nation aged 18 or older.
331 For example, a voter can request assistance from a family member or friend, as long as that person
332 is a qualified voter. The purpose of this revision is to clarify that voters may be assisted by any
333 qualified voter of their choosing, whether they are a member of the Election Board or not [see
334 102.16-4].

335

- **Qualified Voters Only.** The intent of limiting assistance to qualified voters is to restrict the
336 voting area to qualified voters only, consistent with 102.16-8 of this law, which states that this
337 restriction is in the interest of maintaining security of the ballots and the voting process

338 **N. Separation of Milwaukee and Oneida Ballots.** A provision has been added to the law requiring
339 ballots from each polling site to be kept separate. There are currently two polling sites, one in Oneida
340 and one in Milwaukee. During the 2017 general election, the ballots from the manual count in
341 Milwaukee were combined with the machine count in Oneida. During recounts, it was no longer
342 possible to determine if a ballot came from the Milwaukee or Oneida count. By keeping the ballots
343 separate throughout the election process, it will be easier to determine if there were irregularities at
344 one of the polling sites [see 102.16-9(a)].

345 **O. Spoiled Ballots Procedure.** The process for spoiled ballots has been revised. Spoiled ballots will
346 now be placed in a locked, sealed container marked “spoiled ballots.” Previously, spoiled ballots
347 were placed in a marked envelope. In addition, the voter will now be required to witness their spoiled
348 ballot being placed into the container. The purpose of these provisions is to increase voter confidence
349 and to ensure that spoiled ballots are handled properly [see 102.16-10].

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

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

358

- **Extension of Deadline for Recount Requests.** A provision has been added regarding deadlines
359 for a candidate to request a recount. Currently, candidates have five (5) business days after an
360 election to request a recount. If a recount reverses the result of an election, the candidate who
361 lost as a result of the recount will now have one (1) additional business day to request their
362 own recount. This ensures that a candidate impacted by a recount will still have the opportunity
363 to request their own recount [see 102.18-2(a)].

364

- **Require Election Board to Complete Recounts within Two (2) Business Days.** Upon
365 receiving a recount request from the Nation’s Secretary, the Election Board will now have two
366 (2) business days to complete a recount instead of five (5) days. The purpose of shortening the
367 deadline is to get recount results out sooner, especially if the recount changes the result of the
368 election and the losing candidate wishes to request their own recount [see 102.18-4].

369

- **Recounts Conducted by Hand and by Machine.** Currently, there is a discrepancy in the
370 Election Law regarding whether the Election Board must conduct recounts by hand or by
371 machine. A change has been made that will now require the Election Board to both hand count
372 and machine count the ballots during a recount. The intent of this change is to increase voter
373 confidence in the process and ensure an accurate count [see 102.18-7].

374

- **Posting Recount Results.** The Election Board will now be required to post the tentative
375 recount results just like any other election results. The results will be posted in the prominent

376 locations and the Nation’s official media outlets within 24 hours of the recount [see 102.18-
377 9]. The intent of this change is to increase transparency of the recount process.

378 **R. Minor Drafting Changes.** Minor drafting changes have been made throughout the law, such as
379 changing “judge” to “Election judge” for clarity.
380

381 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

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

384 ■ *Open Records and Open Meetings Law.* Among the duties of the Election Board Secretary is to
385 keep a record of Election Board meetings and make them available to the Nation’s Secretary, other
386 Election Board members, and the public as required by the Open Records and Open Meetings Law
387 [see 102.4-9(c)].

388 ■ *Boards, Committees and Commissions Law.* Stipend rates for Election Board members will be set
389 in accordance with the Boards, Committees and Commissions Law. At the time this analysis was
390 drafted, Election Board members receive \$100 per meeting and \$10 per hour to conduct elections
391 [see 102.4-10].

392 ■ *Personnel Policies and Procedures.* Employees of the Nation are not allowed to campaign during
393 work hours. Employees that violate this provision will be subject to disciplinary action in
394 accordance with the Nation’s Personnel Policies and Procedures [see 102.11-1(c)].

395 ■ *Zoning and Shoreline Protection Law.* The Zoning Administrator shall remove any campaign signs
396 that are not in compliance with this law, in accordance with the Zoning and Shoreline Protection
397 Law [see 102.11-3].

398 ■ *Garnishment Law and Per Capita Law.* If a fine issued by the Election Board is not paid by the
399 deadline, the Election Board may seek to collect the money owed through the Nation’s garnishment
400 and/or per capita attachment process [see 102.10-4(b)].
401

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

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

406 ■ **Current Process:** Under current law, if a voter is deemed ineligible to vote on election day, he or
407 she may still fill out a ballot. This ballot is sealed in a numbered envelope and initialed by two
408 Election Board members. The voter then has two (2) business days to mail a written appeal to
409 Election Board. The Election Board will issue a final decision, and will only count the ballot if it
410 is determined that the voter was, in fact, an eligible voter.

411 ■ **Proposed Process:** Under this proposed law, if a voter is deemed ineligible to vote on election day,
412 they cannot fill out a ballot and cannot challenge the decision of the Election officials.

413 ■ **Provisional Voting in State of Wisconsin.** The Wisconsin Election Commission reports that for
414 state elections, voters can receive a provisional ballot if they are unable or unwilling to provide
415 proof of identification. Provisional ballots are not counted unless the voter provides the required
416 information to the municipal clerk by 4:00 pm of the Friday following the election.

417 ■ **Provisional Voting in Other Tribes.** There are examples of other tribes that allow versions of
418 provisional ballots:

419 ○ *Ho Chunk Nation:* If the eligibility of a voter is questioned, the ballot of that voter will be
420 enclosed in an envelope which will be endorsed with the voter’s name, the reason for the
421 challenge, and any refutation of the challenge. The Election Board will make the final
422 determination of the eligibility of the voter and will count the votes of those determined
423 eligible to vote [see *Ho Chunk Election Code 13(j)*].

424 ○ *Forest County Potawatomi:* If the eligibility of a voter is questioned by the Election Board,
425 the ballot of that voter shall be enclosed in an envelope which shall be endorsed with his

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

- 432 ■ **Conclusion:** The LOC should be aware that removing provisional voting eliminates an existing
433 right of voters of the Nation. Whether to allow provisional voting is a policy decision.
434

435 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 436 **A. Challenging an Election.** Any qualified voter may challenge the results of an election by filing a
437 complaint with the Judiciary within ten (10) calendar days after the election [see *102.19-1*].
- 438 **B. Challenging Election Board Decision Regarding Candidate Eligibility.** An applicant found to be
439 ineligible for a nominated or petitioned for position shall have two (2) business days to request a
440 hearing with the Judiciary to review the eligibility status of the applicant [see *102.9-8*].
- 441 **C. Enforcement and Removal.** Election Board members who violate the Election Law may be subject
442 to removal in accordance with the Removal Law, termination of appointment if appointed to fill a
443 vacancy, or sanctions and penalties in accordance with laws of the Nation [see *102.4-12*].
- 444 **D. Final Report.** The Election Board is required to forward a Final Report to the Nation’s Secretary
445 after time has lapsed for recount requests, or challenges or after all recounts or challenges have
446 been completed. The Final Report must include the following information: Total number of persons
447 voting; total votes cast for each candidate by subsection of the ballot; list of any ties and final results
448 of those ties, including the method of resolution; list of candidates elected and position elected to;
449 number of spoiled ballots; and cost of the election, including compensation paid to each Election
450 Board member [see *102.19-2*].
451

452 **SECTION 9. OTHER CONSIDERATIONS**

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

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

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

485 **E. New Forms or Procedures:**

486 ■ *Updated Application:* The Election Board will be required to update the application form to
487 include:

- 488 ○ A list of required documents that applicants must submit to meet minimum eligibility
489 requirements.
- 490 ○ A statement that applicants cannot apply to run for more than one Business Committee or
491 Judiciary position.

492 ■ *Updated Election Board SOPs:* The Election Board will need to update their SOPs to comply with
493 all amendments to this law.

494 ■ *New Referendum Form:* The Nation’s Secretary will be required to provide a standard referendum
495 form at the caucus.

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

497 ■ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
498 emergency legislation [see *Legislative Procedures Act 1 O.C. 109.6-1*].

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

505
506

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	<u>102.14. Notice of Polling Places</u>
102.4. Election Board	<u>102.15. Registration of Voters</u>
102.5. General Election <u>Candidate Eligibility</u>	<u>102.16. Election Process</u>
102.6. <u>Special Election</u>	<u>102.17. Tabulating and Securing Ballots</u>
<u>102.7. Referendums</u>	<u>17. 102.11 Election Outcome</u> <u>Outcomes</u> and Ties
<u>102.8. Primary Elections for Oneida Business Committee Positions</u>	<u>102.12. Elections</u> <u>18. Recount Procedures</u>
<u>102.9. Candidate Eligibility</u>	<u>102.19. Challenges</u> <u>102.13. Oneida Nation Constitution</u> and <u>By-law</u> <u>Declaration of Results</u>
<u>102.10. Campaign Financing</u>	<u>102.20. Constitutional</u> Amendments
<u>102.11. Campaign Signs and Campaigning</u>	

102.1. Purpose and Policy

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

102.1-2. ~~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. ~~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

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

35 approved for acceptance on a ballot.

36 ~~102.3-4.(d)~~ “Business day” shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m.,
 37 excluding holidays of the Nation.

38 ~~102.3-5.(e)~~ “Campaigning” shall mean all efforts designed to influence members of the
 39 Nation to support or reject a particular candidate of the Nation including, without
 40 limitation, advertising, rallying, public speaking, or other communications with members
 41 of the Nation.

42 ~~102.3-6.(f)~~ “Candidate” shall mean a petitioner or nominee for an elected position whose
 43 name is placed on the ballot by the Election Board after successful application.

44 ~~102.3-7.(g)~~ “Clerk” shall mean ~~the election official~~ an Election Board member who
 45 identifies proper registration for the purpose of determining voter eligibility.

46 ~~102.3-8. “Close of business” shall mean 4:30 p.m. Monday through Friday.~~

47 ~~102.3-9.(h)~~ “Conflict of ~~Interest~~ interest” shall mean any interest, whether it be personal,
 48 financial, political or otherwise, in which a Nation elected official, employee, consultant,
 49 appointed or elected, member of any board, committee or commission, or their immediate
 50 relatives, friends or associates, or any other person with whom they have contact, that
 51 conflicts with any right of the Nation to property, information, or any other right to own
 52 and operate its enterprises, free from undisclosed competition or other violation of such
 53 rights of the Oneida Nation, or as defined in any law or policy of the Nation.

54 ~~102.3-10.(i)~~ “Constitution” means the Constitution and By-laws of the Oneida Nation.

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

56 ~~102.3-11.(k)~~ “Election Judge” shall mean an Election Board member who informs and
 57 advises the Election Board Chairperson of discrepancies, complaints and controversy
 58 regarding voter eligibility.

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

63 ~~102.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of~~
 64 ~~discrepancies, complaints and controversy regarding voter eligibility.~~

65 ~~102.3-13.(m)~~ “Immediate family member” means an individual’s father, mother,
 66 grandparent, sister, brother, wife, husband, daughter, son, father-in-law, mother-in-law,
 67 sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-
 68 sister, step-brother, step-daughter, step-son, and any of the these relations attained through
 69 legal adoption.

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

73 ~~102.3-14.(o)~~ “Lot drawing” shall mean the equal chance method used to select a candidate
 74 as the winner of an elected position, in the case of a tie between two (2) or more candidates.

75 ~~102.3-15.(p)~~ “Nation” means the Oneida Nation.

76 ~~102.3-16. “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by~~
 77 ~~the Nation for the benefit of transmitting news to members of the Nation, which is designated by~~
 78 ~~the Election Board as a source for election related news.~~

79 ~~102.3-17.(q)~~ “Official media outlets” means the Oneida Nation’s website and the

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

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

85 ~~102.3-18.~~(s) “Private property” shall mean any lot of land not owned by the Nation, a
 86 residential dwelling or a privately owned business within the boundaries of the
 87 Reservation.

88 ~~102.3-19.~~(t) “Prominent locations” shall mean the polling places, main doors of the
 89 Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail
 90 Store, the Oneida Community Health Center, the South Eastern Oneida Tribal Services
 91 (SEOTS) building, and all One-Stop locations fuel stations operated by the Nation.

92 ~~102.3-20.~~(u) “Qualified voter” shall mean an enrolled member of the Nation who is
 93 eighteen (18) years of age or older as defined in Article III, Section 2 of the Constitution.

94 ~~102.3-21.~~(v) “Rejected Ballotsballots” shall mean those ballots which are rejected by the
 95 vote tabulating machine.

96 ~~102.3-22.~~(w) “Spoiled Ballotballot” shall mean a ballot which contains a voter error or is
 97 otherwise marred and is not tabulated.

98 ~~102.3-23.~~(x) “Teller” shall mean the election officialan Election Board member in charge
 99 of collecting and storing of all ballots.

102.4. Election Board

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

104 ~~102.4-1.~~ An Election Board is hereby created for the purpose of carrying out the provisions of
 105 this law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

106 102.4-2. Composition. The Election Board shall consist of nine (9) elected members. All members
 107 shall be elected to terms of three (3) years, ~~not to exceed two (2) consecutive terms.~~

108 102.4-3. Recusal. An Election Board member shall recuse himself ~~or~~ herself from participating as
 109 an Election Board member in any pre-election, election day, or post-election activities ~~while he or~~
 110 ~~she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of~~
 111 ~~interest when:~~

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

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

117 ~~102.4-5.~~ member of the Election Board member; or

118 (c) there is otherwise a conflict of interest.

119 102.4-4. Vacancies. Any vacancy in an unexpired term shall be filled by appointment by the
 120 Oneida Business Committee for the balance of the unexpired term. The filling of a vacancy may
 121 be timed to correspond with the pre-election activities and the needs of the Election Board.

122 102.4-~~65.~~ The Election Board shall identify members who shall serve as tellers, ~~judges~~Election
 123 Judges and clerks in advance of an election.

124 102.4-~~76~~ Election Board Alternates. The Oneida Business Committee may appoint ~~or reappoint~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

127 102.4-87. The Election Board shall choose a Chairperson from amongst themselves as set out in
 128 the ~~By-laws~~bylaws of the Election Board, to preside over the meetings. This selection shall be
 129 carried out at the first meeting of the Election Board following an election. The Chairperson shall
 130 then ask the Election Board to select a Vice-Chairperson and a Secretary.

131
 132 ~~Section B-102.4-8. Duties of the Election Board~~

133 ~~102.4-9.~~ The Election Board shall have the following duties, along with other responsibilities
 134 listed throughout this law:

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

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

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

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

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

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

146
 147 ~~Section C-102.4-9. Specific Duties of Officers and Election Board Members~~

148 ~~102.4-10. Specific.~~ All Election Board members shall be required to attend all Election Board
 149 meetings. Additional specific duties of the Chairperson and other Election Board members, ~~in~~
 150 ~~addition to being present at all Election Board meetings and assisting~~ include the ~~handicapped~~
 151 ~~through the voting process, are as set out herein~~following:

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

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

157 (2) oversee the conduct of the election; shall

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

160 (4) post and report election results.

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

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

167 (d) ~~Clerks: Shall.~~ The clerks shall implement the requirements of identifying and
 168 registering all voters and determining voter eligibility. Clerks shall work in conjunction
 169 with the Trust Enrollment Department personnel in the registration process, and assist the

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

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

218 102.6-2. Matters subject to a special election include, but are not limited to, referendum questions,
 219 vacancies, and/or petitions. Matters subject to a special election may be placed on the ballot of a
 220 general election.

221 102.6-3. A special election shall follow the processes and procedures established for all other
 222 elections.

223 102.6-4. The date of a special elections shall be set by the Oneida Business Committee as
 224 recommended by the Election Board, or as ordered by the Judiciary in connection with an election
 225 challenge.

226 102.6-5. Notice of Special Elections. Notice of a special election shall be posted by the Election
 227 Board in the prominent locations, and placed in the Nation's official media outlets not less than
 228 ten (10) calendar days prior to the special election.

229 102.6-6. Emergency Cancellation of Special Elections. In the event of an emergency, the Election
 230 Board may reschedule the special election, provided that no less than twenty-four (24) hour notice
 231 of the rescheduled special election date is given to the voters, by posting notices in the prominent
 232 locations.

233 **102.7. Referendums**

234 102.7-1. A qualified voter may submit a referendum question to be included on the ballot for a
 235 general or special election for the purpose of soliciting an opinion from the voters of that election
 236 on any issue directly affecting the Nation or its general membership.

237 102.7-2. The Nation's Secretary shall develop and make available in the Business Committee
 238 Support Office a standard referendum form.

239 102.7-3. A referendum question shall be written in a manner that solicits a "yes" or "no" response.

240 102.7-4. The referendum form shall be presented to the Nation's Secretary at the caucus prior to
 241 an election. Once received at a caucus, the referendum question shall be placed on the ballot of the
 242 next election.

243 102.7-5. The results of a referendum question in which a majority of the qualified voters who cast
 244 votes shall be binding on the Oneida Business Committee to present the issue for action and/or
 245 decision at General Tribal Council.

246 **102.8. Primary Elections for Oneida Business Committee Positions**

247 102.8-1. There shall be a primary election for an Oneida Business Committee position whenever
 248 there are three (3) or more candidates for any officer position or sixteen (16) or more candidates
 249 for the at-large council member positions.

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

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

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

256 102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior
 257 to the election.

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

260 102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee
 261 positions did not draw the requisite number of candidates for a primary by the petitioning deadline
 262 date.

263 102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a
 264 winner in the primary, the Election Board shall declare the next highest primary vote recipient the
 265 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there
 266 are no available candidates. If the ballot has already been printed, the procedures for notifying the
 267 Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to
 268 print a notice in the Nation's official media outlets if time lines allow.

269 **102.9. Candidate Eligibility**

270 Section A. Requirements

271 ~~102.5-1. In~~ 102.9-1. All applicants shall meet the minimum eligibility requirements in order to
 272 become a candidate, in addition to any specific requirements and/or exceptions set out in duly
 273 adopted ~~by laws~~ bylaws or other documents, ~~all applicants shall meet the minimum requirements~~
 274 ~~set out in this section in order to become a candidate.~~

275 102.59-2. Minimum *Eligibility* Requirements. In order to be eligible to be a candidate, applicants
 276 shall:

- 277 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation;
- 278 (b) be a qualified voter on the day of the election; and
- 279 (c) provide proof of physical residency as required for the position for which they have
 280 been nominated or for which they have petitioned. Proof of residency may be through one
 281 (1) or more of the following:
 282 (1) a valid Wisconsin driver's license;
 283 (2) a bill or pay check stub showing name and physical address of the candidate
 284 from the prior or current month;
 285 (3) another form of proof that identifies the candidate and that the candidate has
 286 physically resided at the address and identifies that address as the primary
 287 residence.
 288

289 ~~102.59-3. *Conflict of Interest.*~~ No applicant ~~may~~ shall have a conflict of interest with the position
 290 for which they are being considered, provided that any conflict of interest which may be eliminated
 291 within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or
 292 election.

293 ~~102.59-4. Applications and petitions where the~~ for Candidacy. An applicant interested in being
 294 considered as a candidate for a position that was ~~not~~ nominated during at a caucus or will be
 295 petitioning for candidacy shall ~~be filed by presenting the information~~ submit an application for
 296 candidacy to the Nation's Secretary, ~~or designated agent,~~ or the Business Committee Support
 297 Office.

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

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

303 ~~102.5-5(c)~~ The Nation's Secretary or the Business Committee Support Office shall
 304 timestamp when an application for candidacy is received.

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

(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 designated ~~request a hearing~~ on the notice by hand delivery. ~~The location designated~~ ineligibility determination with the Judiciary.~~

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

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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. ~~102.5-8.~~ 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:

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

395 (4a) Campaign signs shall not be posted or erected on any property of the Nation except
 396 for private property with the owner ~~or~~ tenant's permission.

397 (2b) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven
 398 (7) such signs may be placed on a building or on a lot.

399 (3c) No campaign sign shall project beyond the property line into the public right of way.

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

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

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

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

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

413 *Section D. Candidate Withdrawal*

414 ~~102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by~~
 415 ~~the candidate prior to submission of the ballot for printing to any Election Board member,~~
 416 ~~excluding alternates.~~

417 ~~102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the~~
 418 ~~election by submitting in writing a statement indicating they are withdrawing from the election~~
 419 ~~prior to the opening of the polls to any Election Board member, excluding alternates. This~~
 420 ~~statement shall be posted alongside any sample ballot printed prior to the election in the newspaper~~
 421 ~~or any posting at the polling places.~~

422 ~~102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the~~
 423 ~~Election Board members in charge of the polling place, to be removed from the ballot. The written~~
 424 ~~statement shall be posted next to any posted sample ballot.~~

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

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

429 ~~102.11-5. Removal of Campaign Signs. All campaign signs shall be removed within five (5)~~
 430 ~~business days after an election.~~

431 ~~102.5-13. Candidates~~ **12. Candidate Withdrawal from the Election**

432 ~~102.12-1. A candidate may withdraw from the election at any time. A candidate~~ withdrawing by
 433 any method listed ~~herein~~ **within this section** shall be denied any position from which they have
 434 withdrawn regardless of the number of votes cast for that candidate. A written statement shall be
 435 considered the only necessary evidence of withdrawal and acceptance of denial of any position
 436 withdrawn from.

437 ~~102.12-2. Withdrawal Prior to Submission of the Ballot. A candidate may withdraw his or her~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

4 40 name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted in
 4 41 writing by the candidate to any Election Board member, excluding alternates.

4 42 102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate
 4 43 may withdraw his or her name from the election prior to the opening of the polls by submitting in
 4 44 writing a statement indicating they are withdrawing from the election to any Election Board
 4 45 member, excluding alternates.

4 46 (a) This written withdrawal statement shall be posted alongside any sample ballot printed
 4 47 prior to the election in the official media outlets of the Nation or any posting at the polling
 4 48 places.

4 49 102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening
 4 50 of the polls by submitting a request to be removed from the ballot, in writing, to the Election Board
 4 51 members in charge of the polling place.

4 52 (a) The written withdrawal statement shall be posted next to any posted sample ballot.

4 53 102.12-5-14. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

4 54 (a) In the event a candidate declines an office after winning an election, the Election Board
 4 55 shall declare the next highest vote recipient the winner. This procedure shall be repeated
 4 56 as necessary until a winner is declared.

4 57 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
 4 58 Special Election special election shall be held.

4 59 102.12-6.

4 60 2.6. Selection of Candidates

4 61 Section A *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate declines
 4 62 an office after winning an election and taking an oath of office, the withdrawal shall be treated as
 4 63 a resignation of an official.

4 65 102.13. Selection of Candidates

4 66 102.13-1. *Setting of a Caucus*

4 67 ~~102.6-1.~~ The Election Board shall be responsible for calling a caucus before any election is held.

4 68 (a) The caucus for the general election shall be held at least ~~ninety (90)~~ seventy-five (75)
 4 69 calendar days prior to the election date. ~~Caucuses~~

4 70 (b) A caucus for ~~other elections~~ a special election shall be held at least forty-five (45)
 4 71 calendar days prior to the election date.

4 72 (c) In a general election year, caucuses shall be combined so that candidates for the Oneida
 4 73 Business Committee and other elected ~~boards, committees and commissions~~ positions are
 4 74 nominated at the same caucus.

4 75 ~~102.6-2.~~ 102.13-2. *Caucus Procedures.* The procedures for ~~the~~ a caucus shall be as follows:

4 76 ~~(a) Candidates~~ (a) Each position shall be opened and closed for nominations by motion
 4 77 during the caucus. A nomination for a position shall only be accepted when a position is
 4 78 open for nominations.

4 79 (1) Once nominations are closed for a particular position, an applicant may petition
 4 80 to be on the ballot for that position.

4 81 (b) Once a position is opened for nominations a candidate shall be nominated for a position
 4 82 from the floor.

4 83 ~~(b) Candidates~~ (1) An individual shall not nominate himself or herself for a position
 4 84 during the caucus.

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

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

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

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

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

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

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

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

496
 497 *Section B102.13-3. Petition*

498 ~~102.6-3. for Candidacy.~~ Any eligible member of the Nation may petition to be placed on a ballot
 499 ~~according to the following procedures~~for an election. The procedure for a petition for candidacy
 500 shall be as follows:

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

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

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

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

511 (1) printed name and address;

512 (2) date of birth;

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

514 (4) signature.

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

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

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

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

527
 528 **102.6-4.** ~~A person who runs for a position on the Oneida Business Committee, or a position on a~~
 529 ~~judicial court or commission, shall not run for more than one (1) elective office or seat per election.~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

§ 30
 § 31
 § 32
 § 33
 § 34
 § 35
 § 36
 § 37
 § 38
 § 39
 § 40
 § 41
 § 42
 § 43
 § 44
 § 45
 § 46
 § 47
 § 48
 § 49
 § 50
 § 51
 § 52
 § 53
 § 54
 § 55
 § 56
 § 57
 § 58
 § 59
 § 60
 § 61
 § 62
 § 63
 § 64
 § 65
 § 66
 § 67
 § 68
 § 69
 § 70
 § 71
 § 72
 § 73
 § 74

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. ~~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.

102.714-3. Except for a ~~Special Election~~ special 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 License. Driver's license; or
- (c) Other I.D. with identification card that contains a name and photo photograph.

Section C. Registration Procedures

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

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

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

- ~~(a) name and maiden name (if any);~~
- ~~(b) current address;~~
- ~~(c) date of birth; and~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

~~(d) enrollment number.~~

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

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

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

102.16. Election Process

~~, provided~~ 102.16-1. Public Test of Ballot Machines. No more than ten (10) days prior to an election, the Election Board shall 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.

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

~~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 102.9-12governing spoiled ballots.

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

~~102.10.~~ *Tabulating and Securing Ballots*

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

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

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

712 ~~102.11-4.~~ ~~For~~ 17-4. *Ties of an Oneida Business Committee Position.* For Oneida Business
713 Committee positions, a run-off election between the candidates with the same number of votes
714 shall be held if there remains a tie after the recount. Said run-off election shall be held within
715 twenty one (21) calendar days after the recount.

716 102.17-5. *Ties of Other Elected Positions.* For all ~~other~~ elected positions other than the Oneida
717 Business Committee, if there remains a tie after the recount, the Election Board shall decide the
718 winner of the tied positions at least two (2) business days after, but no more than five (5) business
719 days after the recount through a lot drawing, which shall be open to the public.

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

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

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

733
734 ~~Section~~ 102.18. **Recount Procedures**

735 ~~102.11-5.18-1.~~ 18-1. *Eligibility for a Recount.* A candidate may request the Election Board to complete
736 a recount, provided the margin between the requesting candidate's vote total and vote total for the
737 unofficial winner was within two percent (2%) of the total votes for the office being sought or
738 twenty (20) votes, whichever is greater.

739 102.18-2. *Requesting a Recount.* A candidate ~~requests~~ may request a recount by hand delivering
740 a written request to the office of the Nation's Secretary; or ~~noticed-designated agent~~ the Business
741 Committee Support Office, within five (5) business days after the election.

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

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

747 102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next
748 business day after the request for recounts.

749 ~~102.11-6.18-4.~~ The Election Board shall ~~respond by~~ conduct the ~~close of~~ requested recount within
750 two (2) business ~~on the fifth (5th) day~~ days after receiving the request ~~regarding the results of the~~
751 ~~recount. Provided that, no recount request need be honored where there have been two (2) recounts~~
752 ~~completed as a result of a request either as a recount of the whole election results, or of that sub-~~
753 ~~section.~~ from the Nation's Secretary.

754 ~~102.11-7.~~ All (a) The Election Board shall not honor a recount request where there have

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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

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

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

762 ~~102.11-8. The~~ 18-5. An Oneida Police Officer shall be responsible for picking up the locked,
 763 sealed container with the ballots from the Records Management Department and transporting it to
 764 the ballot recounting location.

765 ~~102.11-9~~ 18-6. A recount shall be conducted by a quorum of the Election Board, including at least
 766 three (3) of the ~~original Election Officials.~~ Election Board members originally present during the
 767 election to count the ballots or review the election totals from the ballot machine. The locked,
 768 sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer
 769 shall witness the recount.

770 ~~102.11-10. Recounting of ballots may be performed manually or by computer.~~ 18-7. All recounts
 771 shall be conducted both manually and by machine count with, if possible, the original Election
 772 Board members and Oneida Police Officer present. Recounts may, at the discretion of the Election
 773 Board members, be of the total election results, or of the challenged sub-section of the election
 774 results.

775 102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting
 776 and the total count of ballots reconciles with the total count from the ballot counting machine.
 777 Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

786
 787 ~~Section D~~ 102.18-9. The Election Board shall post tentative results of the recount within twenty-
 788 four (24) hours of the recount being completed. The Election Board shall post the tentative results
 789 in the prominent locations, and publish on the Nation's website.

791 **102.19. Challenges and Declaration of Results**

792 ~~102.11-11~~ 19-1. Challenges. Any qualified voter may challenge the results of an election by filing
 793 a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall
 794 hear and decide a challenge to any election within two (2) business days after the challenge is filed.
 795 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after
 796 the issuance of the lower body's decision and decided within two (2) business days after the appeal
 797 is filed.

798 (a) The person challenging the election results shall prove by clear and convincing
 799 evidence that the Election Law was violated or an unfair election was conducted, and that

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

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.~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

§ 45 ~~102.12-3. The Election Board shall cancel the primary election if the Business Committee~~
 § 46 ~~positions did not draw the requisite number of candidates for a primary by the petitioning deadline~~
 § 47 ~~set for the primary.~~

§ 48 ~~102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a~~
 § 49 ~~winner in the primary, the Election Board shall declare the next highest primary vote recipient the~~
 § 50 ~~primary winner. This procedure shall be repeated as necessary until the ballot is full or until there~~
 § 51 ~~are no available candidates. If the ballot has already been printed, the procedures for notifying the~~
 § 52 ~~Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to~~
 § 53 ~~print a notice in the Nation's newspaper if time lines allow.~~

§ 54
 § 55 *Section B. Special Elections*

§ 56 ~~102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as~~
 § 57 ~~defined in this law, may be placed on the same ballot as the subject matter of an election.~~

§ 58 ~~102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business~~
 § 59 ~~Committee as recommended by the Election Board or as ordered by the Judiciary in connection~~
 § 60 ~~with an election challenge.~~

§ 61 ~~102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent~~
 § 62 ~~locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the~~
 § 63 ~~Special Election.~~

§ 64 ~~102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided~~
 § 65 ~~that no less than twenty four (24) hours notice of the rescheduled election date is given to the~~
 § 66 ~~voters, by posting notices in the prominent locations.~~

§ 67
 § 68 *Section C. Referendums*

§ 69 ~~102.12-9. Registered voters may indicate opinions on any development, law or resolution,~~
 § 70 ~~proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special~~
 § 71 ~~referendum election.~~

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

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

§ 76 ~~(c) Referendum questions are to be presented to the Nation's Secretary, in writing, at the~~
 § 77 ~~caucus prior to election, regarding issues directly affecting the Nation or general~~
 § 78 ~~membership.~~

§ 79
 § 80 *Section D. Initiation of Special Elections*

§ 81 ~~102.12-10. Special Elections may be initiated by a request or directive of the General Tribal~~
 § 82 ~~Council or the Oneida Business Committee.~~

§ 83 ~~102.12-11. Special Election may be requested by a member of the Nation to the Business~~
 § 84 ~~Committee or General Tribal Council.~~

§ 85 ~~102.12-12. All Special Elections shall follow rules established for all other elections. This includes~~
 § 86 ~~positions for all Boards, Committees and Commissions.~~

§ 87
 § 88 **~~102.13. Oneida Nation Constitution and By-law Amendments~~**

§ 89 ~~102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida~~

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

§ 90 ~~Nation Constitution and By laws~~ may be initiated by the Oneida Business Committee or a petition
 § 91 of qualified voters.

§ 92 102.20-2. Constitutional Amendments by the Oneida Business Committee. The requirements for
 § 93 the Oneida Business Committee's initiation of ~~Constitutional~~ amendments to the Constitution are
 § 94 as provided in the Constitution ~~and as~~ Additional requirements for constitutional amendments by
 § 95 the Oneida Business Committee shall be further detailed in the supporting standard operating
 § 96 procedures which the Oneida Business Committee shall adopt.

§ 97 102.20-3. Constitutional Amendments by a Petition of Qualified Voters. Qualified voters may
 § 98 petition to amend the ~~Oneida Nation Constitution and By laws~~ by submitting a petition to ~~the~~
 § 99 ~~Office of~~ the Nation's Secretary which includes the full text of the proposed amendments and
 § 100 signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

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

§ 103 (b) ~~When~~ Upon the request of a petition form ~~is requested~~, the Nation's Secretary, or his or
 § 104 her designee, shall ~~direct~~ inform the Trust Enrollment Department ~~to that a petition form has~~
 § 105 been requested and a calculation of the signatures currently required for a petition submittal
 § 106 is needed. The Trust Enrollment Department shall then calculate the number of signatures
 § 107 currently required for a petition submittal, which shall be ten percent (10%) of all members
 § 108 qualified to vote on the date the petition form is requested from the Nation's Secretary or
 § 109 the Business Committee Support Office of, and provide this information to the Nation's
 § 110 Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment
 § 111 Department, the Nation's Secretary shall provide the requester with the petition form and
 § 112 the number of signatures that are currently required.

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

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

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

§ 127 ~~102.13-220-4.~~ The Election Board shall place any proposed amendments to the Oneida Nation
 § 128 Constitution that meet the requirements ~~contained in 102.13-1~~ of this law on the ballot at the next
 § 129 general election. Provided that, the Oneida Business Committee or General Tribal Council may
 § 130 order a special election be held to consider the proposed amendments. In such circumstances, the
 § 131 Election Board shall place any proposed amendments to the Oneida Nation Constitution on the
 § 132 ballot at the next special election.

§ 133 ~~102.13-320-5.~~ The Election Board shall publish any proposed amendments to the Constitution by
 § 134 publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass

Draft 2 for GTC Consideration (Redline to Current)

2019 01 21

935 mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson,
 936 no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications
 937 shall be prominently posted in each polling place ~~and~~, at administrative offices of the Nation, and
 938 shall also be published in the official Oneida media outlets, ~~which the Oneida Business Committee~~
 939 ~~shall identify by resolution. For the purposes of this section, Oneida administrative offices means~~
 940 ~~the location where the Oneida Business Committee conducts business.~~

941 102. ~~13-4~~20-6. The Election Board shall ensure that the ballot contains a statement of the purpose
 942 of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall
 943 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a
 944 true and impartial statement and is written in such a manner that does not create prejudice for or
 945 against the proposed amendment.

946 102. ~~13-5~~20-7. Pursuant to Article VI, Section 3 of the ~~Oneida Nation~~ Constitution, proposed
 947 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that
 948 amendment shall become part of the Constitution ~~and By laws~~, and shall abrogate or amend
 949 existing provisions of the Constitution ~~and By laws~~ at the end of thirty (30) days after- submission
 950 of the final election report.

951 102. ~~13-6~~20-8. If two (2) or more amendments approved by the voters at the same election conflict,
 952 the amendment receiving the highest affirmation vote prevails.

953
 954

955 *End.*

956

958 Adopted - June 19, 1993

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

960 Presented for Adoption of 1997 Revisions - GTC-~~707~~-6-98-A

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

962 Amended-GTC-01-04-10-A

963 Amended – BC-02-25-15-C

964 Amended – GTC-04-23-17-A

965 Amended – GTC- - - -

Title 1. Government and Finances - Chapter 102

ELECTION

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

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

102.1. Purpose and Policy	102.11. 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
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

1 102.1. Purpose and Policy

2 102.1-1. *Purpose.* It is the purpose of this law to govern the procedures for the conduct of orderly
3 elections of the Nation, including pre-election activities such as caucuses and nominations.
4 Because of the desire for orderly and easily understood elections, there has not been an allowance
5 made for write-in candidates on ballots.

6 102.1-2. *Policy.* It is the policy of the Nation to have clearly defined duties and responsibilities
7 of the Election Board members and other persons employed by the Oneida Nation in the conduct
8 of elections. This law is intended to govern all procedures used in the election process.
9

10 102.2. Adoption, Amendment, Repeal

11 102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-
12 98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, and
13 GTC-__-__-__-__

14 102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to
15 the procedures set out in the Legislative Procedures Act.

16 102.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.

19 102.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control.

21 102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
22

23 102.3. Definitions

24 102.3-1. This section shall govern the definitions of words and phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.

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

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

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

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

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

Draft 2 for GTC Consideration

2019 01 21

- 36 advertising, rallying, public speaking, or other communications with members of the
37 Nation.
- 38 (f) “Candidate” shall mean a petitioner or nominee for an elected position whose name is
39 placed on the ballot by the Election Board after successful application.
- 40 (g) “Clerk” shall mean an Election Board member who identifies proper registration for
41 the purpose of determining voter eligibility.
- 42 (h) “Conflict of interest” shall mean any interest, whether it be personal, financial, political
43 or otherwise, in which a Nation elected official, employee, consultant, appointed or elected,
44 member of any board, committee or commission, or their immediate relatives, friends or
45 associates, or any other person with whom they have contact, that conflicts with any right
46 of the Nation to property, information, or any other right to own and operate its enterprises,
47 free from undisclosed competition or other violation of such rights of the Oneida Nation,
48 or as defined in any law or policy of the Nation.
- 49 (i) “Constitution” means the Constitution and By-laws of the Oneida Nation.
- 50 (j) “Election” shall mean every primary and election.
- 51 (k) “Election Judge” shall mean an Election Board member who informs and advises the
52 Election Board Chairperson of discrepancies, complaints and controversy regarding voter
53 eligibility.
- 54 (l) “General election” shall mean the election held every three (3) years in July to elect the
55 Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the
56 Oneida Business Committee, and may include elections for other elected positions.
- 57 (m) “Immediate family member” means an individual’s father, mother, grandparent, sister,
58 brother, wife, husband, daughter, son, father-in-law, mother-in-law, sister-in-law, brother-
59 in-law, daughter-in-law, son-in-law, step-father, step-mother, step-sister, step-brother,
60 step-daughter, step-son, and any of the these relations attained through legal adoption.
- 61 (n) “Judiciary” means the judicial system that was established by Oneida General Tribal
62 Council resolution GTC-01-07-13-B to administer the judicial authorities and
63 responsibilities of the Nation.
- 64 (o) “Lot drawing” shall mean the equal chance method used to select a candidate as the
65 winner of an elected position, in the case of a tie between two (2) or more candidates.
- 66 (p) “Nation” means the Oneida Nation.
- 67 (q) “Official media outlets” means the Oneida Nation’s website and the Kalihwisaks
68 newspaper as identified by the Oneida Business Committee through resolution BC-03-22-
69 17-B.
- 70 (r) “Oneida Police Officer” shall mean an individual employed as a police officer with the
71 Oneida Police Department.
- 72 (s) “Private property” shall mean any lot of land not owned by the Nation, a residential
73 dwelling or a privately owned business within the boundaries of the Reservation.
- 74 (t) “Prominent locations” shall mean the polling places, main doors of the Norbert Hill
75 Center, main doors of the Oneida Community Library, the Oneida Community Health
76 Center, the South Eastern Oneida Tribal Services (SEOTS) building, and all fuel stations
77 operated by the Nation.
- 78 (u) “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18)
79 years of age or older as defined in Article III, Section 2 of the Constitution.
- 80 (v) “Rejected ballots” shall mean those ballots which are rejected by the vote tabulating

Draft 2 for GTC Consideration
2019 01 21

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:

Draft 2 for GTC Consideration

2019 01 21

126 (a) *Chairperson*. The Chairperson of the Election Board shall conduct the following duties:
 127 (1) preside over meetings of the Election Board;
 128 (2) oversee the conduct of the election;
 129 (3) dismiss the alternates and Trust Enrollment Department personnel when their
 130 election day duties are complete; and
 131 (4) post and report election results.

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

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

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

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

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

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

149 102.4-10. *Stipend Rates*. Election Board members shall receive a stipend in accordance with the
 150 Nation's laws, policies, and resolutions governing boards, committees, and commissions. Election
 151 Board members are to be compensated at an hourly rate when conducting elections as provided
 152 for in the Election Board's bylaws as approved by the Oneida Business Committee.

153 102.4-11. *Compensation of other Election Personnel*. The Trust Enrollment Department
 154 personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of
 155 their respective budgets when performing official duties during an election in accordance with this
 156 law.

157 102.4-12. *Enforcement*. A member of the Election Board found to be in violation of this law may
 158 be subject to:

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

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

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

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

170

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.

Draft 2 for GTC Consideration

2019 01 21

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

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

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

222 102.8-2. The primary election shall be held on a Saturday at least thirty (30) calendar days prior
223 to the election.

224 102.8-3. The Election Board shall cancel the primary election if the Oneida Business Committee
225 positions did not draw the requisite number of candidates for a primary by the petitioning deadline
226 date.

227 102.8-4. In the event a candidate withdraws or is unable to run for office after being declared a
228 winner in the primary, the Election Board shall declare the next highest primary vote recipient the
229 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there
230 are no available candidates. If the ballot has already been printed, the procedures for notifying the
231 Oneida public in section 102.12-3 and 102.12-4 shall be followed, including the requirement to
232 print a notice in the Nation's official media outlets if time lines allow.

233

234 **102.9. Candidate Eligibility**

235 102.9-1. All applicants shall meet the minimum eligibility requirements in order to become a
236 candidate, in addition to any specific requirements and/or exceptions set out in duly adopted
237 bylaws or other documents.

238 102.9-2. *Minimum Eligibility Requirements.* In order to be eligible to be a candidate, applicants
239 shall:

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

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

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

244 (1) or more of the following:

245 (1) a valid Wisconsin driver's license;

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

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

251 102.9-3. *Conflict of Interest.* No applicant shall have a conflict of interest with the position for
252 which they are being considered, provided that any conflict of interest which may be eliminated
253 within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or
254 election.

255 102.9-4. *Applications for Candidacy.* An applicant interested in being considered as a candidate
256 for a position that was nominated at a caucus or will be petitioning for candidacy shall submit an
257 application for candidacy to the Nation's Secretary or the Business Committee Support Office.

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

Draft 2 for GTC Consideration

2019 01 21

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

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

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

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

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

273 102.9-5. An applicant for a position on the Oneida Business Committee or a position within the
274 Judiciary shall only be eligible to apply for one (1) elective office or position per election.

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

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

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

285 102.9-6. The names of the candidates and the positions sought shall be a public record and made
286 available to the public upon the determination of eligibility by the Election Board or the Election
287 Board's designee.

288 102.9-7. *Eligibility Review.* The Election Board shall be responsible for reviewing the
289 qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a
290 nominated or petitioned for position shall be notified by certified mail return receipt requested.

291 The notice shall provide the following information:

292 (a) Position for which they were considered;

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

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

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

298 102.9-8. *Request for a Hearing on Ineligibility.* An applicant found to be ineligible for a
299 nominated or petitioned for position shall have two (2) business days to request a hearing with the
300 Judiciary to review the eligibility status of the applicant. The Judiciary shall hear and decide a
301 request for a hearing on ineligibility within two (2) business days after the request is filed. Any
302 appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the
303 issuance of the lower body's decision and decided within two (2) business days after the appeal is
304 filed.

305

306 **102.10. Campaign Financing**

307 102.10-1. A candidate shall only accept contributions from individuals who are members of the
308 Nation or individuals related by blood or marriage to the candidate.

309 102.10-2. A candidate shall not accept contributions from any business, whether sole
310 proprietorship, partnership, corporation, or other business entity.

311 102.10-3. A candidate shall not solicit or accept contributions in any office, business and/or
312 facility of the Nation.

313 102.10-4. *Violations of Campaign Financing Restrictions.* A violation of the campaign financing
314 restrictions shall result in a fine.

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

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

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

321

322 **102.11. Campaign Signs and Campaigning**

323 102.11-1. *Restrictions on Campaigning.* The following restrictions on campaigning apply to all
324 candidates:

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

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

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

331 (A) private property;

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

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

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

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

340 102.11-2. *Placement of Campaign Signs.* Placement of campaign signs shall be pursuant to the
341 following restrictions:

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

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

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

347 102.11-3. *Enforcement of Sign Placement.* The Zoning Administrator shall remove any campaign
348 signs that are not in compliance with this law, in accordance with the Nation's laws and policies
349 governing zoning. The Zoning Administrator shall notify the Election Board of campaign sign
350 violations.

Draft 2 for GTC Consideration

2019 01 21

351 102.11-4. *Violations of Campaign Restrictions.* A violation of a restriction on campaigning, or
 352 campaign sign restrictions shall result in a fine.

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

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

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

359 102.11-5. *Removal of Campaign Signs.* All campaign signs shall be removed within five (5)
 360 business days after an election.

361

362 **102.12. Candidate Withdrawal from the Election**

363 102.12-1. A candidate may withdraw from the election at any time. A candidate withdrawing by
 364 any method listed within this section shall be denied any position from which they have withdrawn
 365 regardless of the number of votes cast for that candidate. A written statement shall be considered
 366 the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn
 367 from.

368 102.12-2. *Withdrawal Prior to Submission of the Ballot.* A candidate may withdraw his or her
 369 name from a ballot prior to submission of the ballot for printing if the withdrawal is submitted in
 370 writing by the candidate to any Election Board member, excluding alternates.

371 102.12-3. *Withdrawal Prior to the Opening of the Polls.* After the ballot is printed, a candidate
 372 may withdraw his or her name from the election prior to the opening of the polls by submitting in
 373 writing a statement indicating they are withdrawing from the election to any Election Board
 374 member, excluding alternates.

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

378 102.12-4. *Withdrawal After Opening of the Polls.* A candidate may withdraw after the opening
 379 of the polls by submitting a request to be removed from the ballot, in writing, to the Election Board
 380 members in charge of the polling place.

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

382 102.12-5. *Candidate Withdrawal After Winning an Election but Before the Oath is Taken.*

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

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

388 102.12-6. *Candidate Withdrawal After Taking an Oath of Office.* In the event a candidate declines
 389 an office after winning an election and taking an oath of office, the withdrawal shall be treated as
 390 a resignation of an official.

391

392 **102.13. Selection of Candidates**

393 102.13-1. *Setting of a Caucus.* The Election Board shall be responsible for calling a caucus before
 394 any election is held.

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

- 396 days prior to the election date.
- 397 (b) A caucus for a special election shall be held at least forty-five (45) calendar days prior
- 398 to the election date.
- 399 (c) In a general election year, caucuses shall be combined so that candidates for the Oneida
- 400 Business Committee and other elected positions are nominated at the same caucus.
- 401 102.13-2. *Caucus Procedures.* The procedures for a caucus shall be as follows:
- 402 (a) Each position shall be opened and closed for nominations by motion during the caucus.
- 403 A nomination for a position shall only be accepted when a position is open for nominations.
- 404 (1) Once nominations are closed for a particular position, an applicant may petition
- 405 to be on the ballot for that position.
- 406 (b) Once a position is opened for nominations a candidate shall be nominated for a position
- 407 from the floor.
- 408 (1) An individual shall not nominate himself or herself for a position during the
- 409 caucus.
- 410 (c) A candidate present at the caucus shall accept or decline his or her nomination at the
- 411 caucus. A candidate nominated at the caucus, but not present at the caucus to accept the
- 412 nomination, shall be required to follow the petition process.
- 413 (d) Nominations shall consist of the following positions:
- 414 (1) Oneida Business Committee Chairperson;
- 415 (2) Oneida Business Committee Vice-Chairperson;
- 416 (3) Oneida Business Committee Treasurer;
- 417 (4) Oneida Business Committee Secretary;
- 418 (5) Oneida Business Committee Council Member; and
- 419 (6) Any other elected positions as required by bylaws, resolution, or law of the
- 420 Nation.
- 421 102.13-3. *Petition for Candidacy.* Any eligible member of the Nation may petition to be placed
- 422 on a ballot for an election. The procedure for a petition for candidacy shall be as follows:
- 423 (a) Each petitioner not nominated at caucus shall file a petition for candidacy. A
- 424 petitioner shall use an official petition form and application for candidacy which may
- 425 be obtained in the Business Committee Support Office or from the mailing for that
- 426 caucus.
- 427 (b) A petitioner shall obtain at least ten (10) signatures of qualified voters on the
- 428 petition form. The petition form shall contain the original signatures of the qualified
- 429 voters. Photocopies of signatures shall not be accepted.
- 430 (c) The petition form shall consist of each qualified voter's:
- 431 (1) printed name and address;
- 432 (2) date of birth;
- 433 (3) enrollment number; and
- 434 (4) signature.
- 435 (d) Petitions shall be presented to the Nation's Secretary or the Business Committee
- 436 Support Office during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through
- 437 Friday, but no later than five (5) business days after the caucus. The location to drop-
- 438 off petitions shall be identified in the mailing identifying the caucus date.
- 439 (e) The Nation's Secretary shall forward all petitions to the Election Board Chairperson
- 440 the next business day following the close of petition submissions.

Draft 2 for GTC Consideration

2019 01 21

441 (f) The Election Board shall forward the petitions to the Trust Enrollment Department
 442 for verification that all individuals who provided a signature on the petition are a
 443 qualified voter of the Nation.
 444

445 **102.14. Notice of Polling Places**

446 102.14-1. The Election Board shall post a notice of the election in the prominent locations and on
 447 the official media outlets, stating the location of the polling places and the time the polls will be
 448 open. This notice shall also be posted in an easily visible position, close to the entrance of the
 449 Nation's businesses and/or facilities.

450 102.14-2. Notice of the election and polling information shall be posted no less than ten (10)
 451 calendar days prior to the election, and shall remain posted until the poll closes on the day of the
 452 election.

453 102.14-3. Except for a special election, notice for the election shall be mailed to all members of
 454 the Nation eligible to vote in the election, stating the time and place of the election and a sample
 455 of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The
 456 Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than
 457 twenty (20) calendar days prior to the requested mailing.
 458

459 **102.15. Registration of Voters**

460 102.15-1. *Voter Registration.* Qualified voters shall physically register on the day of the election
 461 at the polls by signing his or her name on an official Voter Registration Form containing the
 462 following information:

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

466 102.15-2. *Identification of Voters.* All qualified voters shall present one of the following picture
 467 identifications in order to be able to vote:

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

471 102.15-3. Trust Enrollment Department personnel shall be responsible for verifying enrollment
 472 with the Nation. The conduct of Trust Enrollment Department personnel is governed by the
 473 Election Board members during the voting period.

474 102.15-4. *Verification of Voter Eligibility.* Should a question or dispute arise as to the eligibility
 475 of an individual being qualified to vote, an Election Board member serving as an Election Judge
 476 shall meet with the Trust Enrollment Department personnel who are registering voters, to decide
 477 the voting member's eligibility currently being questioned, and shall make such decisions from
 478 the facts available, whether the applicant is, in fact qualified and verifiable under Article III Section
 479 2 of the Constitution to vote in the Nation's elections.

480 102.15-5. Any voter denied eligibility shall not be allowed to vote in the election.
 481

482 **102.16. Election Process**

483 102.16-1. *Public Test of Ballot Machines.* No more than ten (10) days prior to an election, the
 484 Election Board shall publicly test the ballot machines to ensure that the ballot machine correctly
 485 counts the votes cast for all offices and on all measures.

Draft 2 for GTC Consideration

2019 01 21

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

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

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

493 102.16-2. *Polling Location.* Elections shall be held in facilities of the Nation as determined by
494 the Election Board.

495 102.16-3. *Polling Time.* Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m.
496 All qualified voters in line to vote at 7:00 p.m. shall be allowed to vote.

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

501 102.16-4. *Voter Assistance.* A voter who requires assistance to complete the voting process, due
502 to a disability or impairment, may request assistance from a member of the Election Board or from
503 another qualified voter.

504 102.16-5. At least one (1) Oneida Police Officer shall be present during the time the polls are
505 open, and until the counting of ballots is completed, and tentative results are posted.

506 102.16-6. The Election Board shall provide a voting area sufficiently isolated for each qualified
507 voter, such that there is an area with at least two (2) sides and a back enclosure.

508 102.16-7. No one causing a disturbance shall be allowed in the voting area.

509 102.16-8. Election Board members may restrict the voting area to qualified voters only. This
510 restriction is in the interest of maintaining security of the ballots and voting process.

511 102.16-9. *Ballot Box.* All ballots used to vote, shall be placed in a receptacle clearly marked
512 "Ballot Box," except for those ballots spoiled or rejected. The ballot box shall be locked until
513 counting at the close of polls. With electronic ballot counting, the ballots may be placed within
514 the ballot counting machine as they are received.

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

516 102.16-10. *Spoiled Ballots.* If a voter spoils his or her ballot, he or she shall be given a new ballot.

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

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

524 102.16-11. *Rejected Ballots.* Rejected Ballots are to be placed in a specially marked container
525 and sealed.

526 (a) Computer rejected ballots shall be reviewed by the Election Board members to verify
527 the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the
528 final computer total, provided that, a new ballot was not received as set out in section
529 102.16-10 governing spoiled ballots.

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

Draft 2 for GTC Consideration

2019 01 21

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

535 102.16-12. *Machine Counted Ballots.* When ballots are counted by machine, the Election Judges
 536 shall generate from the ballot counting machine copies of the election totals from the votes cast at
 537 the close of the polls.

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

541 102.16-13. *Manually Counted Ballots.* When ballots are manually counted, the Election Judges
 542 shall unlock the ballot box and remove the ballots at the close of the polls.

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

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

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

552 102.16-14. *Securing Ballots.* The Election Judges shall place together all ballots counted and
 553 secure them together so that they cannot be untied or tampered with without breaking the seal.
 554 The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured
 555 by the Election Judges in a sealed container in such a manner that the container cannot be opened
 556 without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall
 557 then deliver, on the day of the election, the sealed container to the Oneida Police Department for
 558 retention. The Oneida Police Officer shall then deliver the sealed container to the Records
 559 Management Department for retention on the next business day.

560

561 **102.17. Election Outcome and Ties**

562 102.17-1. *Election Results Announcement.* The tentative results of an election shall be announced
 563 and posted by the Election Board within twenty-four (24) hours after the closing of the polls.
 564 Notices of election results shall contain the following statement: "The election results posted here
 565 are tentative results. Final election results are forwarded by the Oneida Election Board to the
 566 Oneida Business Committee via a Final Report after time has lapsed for recount requests, or
 567 challenges or after all recounts or challenges have been completed, whichever is longer"

568 102.17-2. The Election Board shall post the tentative results of the election in the prominent
 569 locations, and publish the tentative results on the Nation’s website.

570 102.17-3. *Tie* . In the event of a tie for any office, and where the breaking of a tie is necessary to
 571 determine the outcome of an election, the Election Board shall conduct an automatic recount of
 572 the votes for each candidate receiving the same number of votes. Any recount conducted shall be
 573 the only recount allowed for the tied candidates.

574 102.17-4. *Ties of an Oneida Business Committee Position.* For Oneida Business Committee
 575 positions, a run-off election between the candidates with the same number of votes shall be held if

Draft 2 for GTC Consideration

2019 01 21

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

578 102.17-5. *Ties of Other Elected Positions.* For all elected positions other than the Oneida Business
579 Committee, if there remains a tie after the recount, the Election Board shall decide the winner of
580 the tied positions at least two (2) business days after, but no more than five (5) business days after
581 the recount through a lot drawing, which shall be open to the public.

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

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

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

595

596 **102.18. Recount Procedures**

597 102.18-1. *Eligibility for a Recount.* A candidate may request the Election Board to complete a
598 recount, provided the margin between the requesting candidate's vote total and vote total for the
599 unofficial winner was within two percent (2%) of the total votes for the office being sought or
600 twenty (20) votes, whichever is greater.

601 102.18-2. *Requesting a Recount.* A candidate may request a recount by hand delivering a written
602 request to the office of the Nation's Secretary or the Business Committee Support Office, within
603 five (5) business days after the election.

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

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

609 102.18-3. The Nation's Secretary shall contact the Election Board Chairperson by the next
610 business day after the request for recounts.

611 102.18-4. The Election Board shall conduct the requested recount within two (2) business days
612 after receiving the request from the Nation's Secretary.

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

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

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

617 102.18-5. An Oneida Police Officer shall be responsible for picking up the locked, sealed
618 container with the ballots from the Records Management Department and transporting it to the
619 ballot recounting location.

620 102.18-6. A recount shall be conducted by a quorum of the Election Board, including at least three

Draft 2 for GTC Consideration

2019 01 21

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

624 102.18-7. All recounts shall be conducted both manually and by machine count with, if possible,
 625 the original Election Board members and Oneida Police Officer present. Recounts may, at the
 626 discretion of the Election Board members, be of the total election results, or of the challenged sub-
 627 section of the election results.

628 102.18-8. All ballots shall be counted until two (2) final tallies are equal in back to back counting
 629 and the total count of ballots reconciles with the total count from the ballot counting machine.
 630 Sub-sections of candidates may be recounted in lieu of a full recount.

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

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

638 102.18-9. The Election Board shall post tentative results of the recount within twenty-four (24)
 639 hours of the recount being completed. The Election Board shall post the tentative results in the
 640 prominent locations, and publish on the Nation's website.

641

642 **102.19. Challenges and Declaration of Results**

643 102.19-1. *Challenges.* Any qualified voter may challenge the results of an election by filing a
 644 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall
 645 hear and decide a challenge to any election within two (2) business days after the challenge is filed.
 646 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after
 647 the issuance of the lower body's decision and decided within two (2) business days after the appeal
 648 is filed.

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

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

655 102.19-2. *The Final Report.* The Election Board shall forward a Final Report to the Nation's
 656 Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges
 657 have been completed, whichever is longer. The Final Report shall consist of the following
 658 information:

659 (a) Total number of persons voting;

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

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

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

663 (e) Number of spoiled ballots; and

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

665 102.19-3. *Declaration of Results.* The Business Committee shall declare the official results of the

Draft 2 for GTC Consideration

2019 01 21

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

668 102.19-4. A candidate elected to the Oneida Business Committee shall resign from any salaried
669 position effective prior to taking an Oneida Business Committee oath of office

670 102.19-5. Except in the event of an emergency, as determined by the Oneida Business Committee,
671 a newly elected official shall be sworn into office no later than thirty (30) calendar days after the
672 official results of an election are declared by the Oneida Business Committee.

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

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

678 102.19-6. The Election Board shall send notice to the Records Management Department to destroy
679 the ballots thirty (30) calendar days after the election or after the final declaration of official
680 election results occurs, whichever is longer.

681

682 **102.20. Constitutional Amendments**

683 102.20-1. Pursuant to Article VI of the Constitution, amendments to the Constitution may be
684 initiated by the Oneida Business Committee or a petition of qualified voters.

685 102.20-2. *Constitutional Amendments by the Oneida Business Committee.* The requirements for
686 the Oneida Business Committee's initiation of amendments to the Constitution are as provided in
687 the Constitution. Additional requirements for constitutional amendments by the Oneida Business
688 Committee shall be further detailed in the supporting standard operating procedures which the
689 Oneida Business Committee shall adopt.

690 102.20-3. *Constitutional Amendments by a Petition of Qualified Voters.* Qualified voters may
691 petition to amend the Constitution by submitting a petition to the Nation's Secretary which
692 includes the full text of the proposed amendments and signatures that are equal in number to at
693 least ten percent (10%) of all members qualified to vote.

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

696 (b) Upon the request of a petition form, the Nation's Secretary, or his or her designee, shall
697 inform the Trust Enrollment Department that a petition form has been requested and a
698 calculation of the signatures currently required for a petition submittal is needed. The Trust
699 Enrollment Department shall then calculate the number of signatures currently required for
700 a petition submittal, which shall be ten percent (10%) of all members qualified to vote on
701 the date the petition form is requested from the Nation's Secretary or the Business
702 Committee Support Office, and provide this information to the Nation's Secretary. When
703 the Nation's Secretary receives the calculation from the Trust Enrollment Department, the
704 Nation's Secretary shall provide the requester with the petition form and the number of
705 signatures that are currently required.

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

Draft 2 for GTC Consideration
2019 01 21

711 where required on the petition form.
712 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment
713 Department for verification that all individuals who provided a signature on the petition
714 are qualified voters of the Nation and to notify the Election Board to provide notice that
715 the petition may need to be placed on an upcoming ballot.

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

720 102.20-4. The Election Board shall place any proposed amendments to the Oneida Nation
721 Constitution that meet the requirements of this law on the ballot at the next general election.
722 Provided that, the Oneida Business Committee or General Tribal Council may order a special
723 election be held to consider the proposed amendments. In such circumstances, the Election Board
724 shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the next
725 special election.

726 102.20-5. The Election Board shall publish any proposed amendments to the Constitution by
727 publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass
728 mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson,
729 no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications
730 shall be prominently posted in each polling place, at administrative offices of the Nation, and shall
731 also be published in the official media outlets.

732 102.20-6. The Election Board shall ensure that the ballot contains a statement of the purpose of
733 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall
734 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a
735 true and impartial statement and is written in such a manner that does not create prejudice for or
736 against the proposed amendment.

737 102.20-7. Pursuant to Article VI, Section 3 of the Constitution, proposed amendments that are
738 approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall
739 become part of the Constitution, and shall abrogate or amend existing provisions of the
740 Constitution at the end of thirty (30) days after submission of the final election report.

741 102.20-8. If two (2) or more amendments approved by the voters at the same election conflict, the
742 amendment receiving the highest affirmation vote prevails.

743
744
745 *End.*

746
747
748 Adopted - June 19, 1993
749 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)
750 Presented for Adoption of 1997 Revisions - GTC-07-6-98-A
751 Amended- October 11, 2008 (General Tribal Council Meeting)
752 Amended-GTC-01-04-10-A
753 Amended – BC-02-25-15-C
754 Amended – GTC-04-23-17-A
755 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

Yaw^ko

June 2019

June 2019							July 2019						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1		1	2	3	4	5	6
2	3	4	5	6	7	8	7	8	9	10	11	12	13
9	10	11	12	13	14	15	14	15	16	17	18	19	20
16	17	18	19	20	21	22	21	22	23	24	25	26	27
23	24	25	26	27	28	29	28	29	30	31			
30													

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 26	27	28	29	30	31	Jun 1
2	3	4	5 9:00am LOC (BC_Conf_Roo 9:00am LOC Meeting 9:00am LOC Meeting	6	7	8
9	10	11	12	13 2:00pm LOC Work Session (BC_Exec_Conf _Room) - Clorissa N. Santiago	14	15
16	17	18	19 9:00am LOC Meeting (BCCR) - LOC	20	21	22
23	24	25	26	27 9:00am LOC Work Session (BC_Exec_Conf _Room) - Clorissa N. Santiago	28	29
30	Jul 1	2	3	4	5	6

July 2019

July 2019

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jun 30	Jul 1	2	3 LOC CANCELLED	4	5	6
7	8	9	10	11	12	13
14	15	16	17 9:00am LOC Meeting (BCCR) - LOC	18	19	20
21	22	23	24	25	26	27
28	29 8:00am FW: Mandatory BC Work Session - Bylaws (Ridgeview Plaza - Suite 4) - TribalSecretary	30 Mandatory BC Work Session- Bylaws; Ridgeview Plaza - Suite 4	31	Aug 1	2	3