

Gaá Číng Zíbi Daáwaá

# Little River Band of Ottawa Indians

## Election Board Regulations



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# **CHAPTER 1. DEFINITIONS AND GOVERNING PROVISIONS**

## **Section 1. Governing Provisions**

- a. Authority. The Election Board has adopted these regulations under the authority of the Tribal Constitution.
- b. Purpose. The Election Board has adopted these regulations in order to carry out its responsibilities under the Tribal Constitution and in order to serve the best interests of the Tribe and its members.
- c. Severability. If a court of competent jurisdiction determines that any portion of these regulations is invalid for any reason, the remainder of these regulations shall continue to be given effect to the extent possible.
- d. Previous regulations. All Election Board regulations in effect prior to these regulations are repealed and replaced by these regulations.

## **Section 2. Definitions of Terms Used in Election Board Regulations.**

The following terms shall have these definitions wherever they are used in the Election Board Regulations.

- a. "At-Large District" means the geographic area representing all of the registered voters of the Tribe.
- b. "Nine-County District" means the area consisting of Kent, Lake, Manistee, Mason, Muskegon, Newaygo, Oceana, Ottawa and Wexford Counties, in the state of Michigan, for the purposes of voting in an election for a vacancy on Tribal Council.
- c. "Outlying District" means the area representing the members of the Tribe residing outside the Nine-County District for the purposes of voting in an election for a vacancy on Tribal Council.
- d. "Ballot" means the piece of paper or cardboard issued by the Election Board or election services contractor upon which votes are cast in Tribal elections. The term Ballot includes both Mail-In Ballots and In-Person Ballots.
- e. "Complaint" means an election dispute, election challenge, or any other form of contest or grievance related to an Election Board action besides an allegation of impropriety.

- f. "Complainant" means a Tribal Member who files a Complaint against the Election Board.
- g. "Contribution" means the donation of money or other valuable things in support of a particular candidate or candidates. An in-kind contribution is a contribution.
- h. "Designated representative" means a Tribal employee designated by the Election Board to act on its behalf for the limited purposes expressly set out in this Regulation. The Election Board shall document in writing the name of any designated representative.
- i. "Election Board Attorney" means a person hired by the Election Board to represent the Election Board in a Hearing.
- j. "Election campaign" means a campaign for elected office, a recall election, an initiative election, a referendum, and all forms of petition drives.
- k. "Election challenge" means a direct challenge to the results or outcome of an election itself. The object of the challenge is to affect the outcome of an election. Election challenges generally occur after the ballots are counted.
- l. "Election day" means the date on which ballots are counted for a General or Special Election.
- m. "Election dispute" means any election dispute other than that which challenges the outcome of an election. The object of an election dispute is to affect how a Tribal election is conducted as the election process moves forward. Election disputes generally occur before the ballots are counted.
- n. "Elected Official" or "Elected Office" means any of the following: (i) a member of the Tribal Council; (ii) the Tribal Ogema; (iii) a member of the Tribal judiciary, (iv.) a member of the Election Board, if elected rather than appointed.
- o. "Endorsement" means an indication of commendation or approval, either verbal or in writing, by a person supporting a candidate for office. An endorsement is not a contribution.

- p. "General Election" is the election held every two years in odd number years on the last Friday of April, and which is also referred to in the Tribal Constitution as the "Regular Election."
- q. "Hearing" means a proceeding used to decide Election Disputes, Election Challenges, and other election-related complaints.
- r. "Hearing Officer" means a person hired by the Election Board to preside over Hearings and issue Proposed Decisions.
- s. "Immediate family" means (I) a parent, step-parent, spouse, sibling, step-sibling, or child, or (ii) another person who is related by blood, legal custody or adoption and resides in the same household.
- t. "Impropriety" means a violation of the ethical standards in these rules.
- u. "In-kind contribution" means a contribution of a person's personal or professional efforts or services in support of a particular candidate or candidates. Circulating petitions on a volunteer basis is not an in-kind contribution.
- v. "In-Person Ballot" means a ballot cast by a registered voter in person at a designated polling place on General Election Day.
- w. "Mail-In Ballot" means a ballot distributed to and returned by registered voters through the mail.
- x. "Mailing address" is the address on file in the Enrollment Department Data Base provided by the member for the delivery of mail from the Tribe.
- y. "Physical address" means the address on file in the Enrollment Department Data Base of the physical location where a person lives. By way of explanation but not by way of limitation, a street address is a residential physical address, but a post office box number is not a residential physical address.
- z. "Post" means to place written information at the following locations: the Little River Band Community Center (Aki), Little River Band Government Building, Little River Band Health Center, Election Board office door, Little River Casino Resort, Little River Band Muskegon Satellite Office, Tribal Justice Center, Tribal Natural Resources Building, on the Tribe's website if possible, and if possible in the next available Little River Band of Ottawa Indians Tribal newspaper.



- aa. "Primary Residence" means that one place where a person maintains a fixed, permanent and principal home and to which he or she, wherever temporarily located, always intends to return.
- bb. "Proposed Decision" means a written decision by the Hearing Officer after a Hearing.
- cc. "Record" means all evidence, witnesses, documents, etc. presented to the Hearing Officer at the Hearing and the minutes of the Hearing.
- dd. "Recount" means the process of verifying the vote count in an election by counting the ballots a second time.
- ee. "Registered voter" means any Tribal member who meets the requirements for voter registration in Chapter 2 of these regulations.
- ff. "Regular Election" is the election held every two years in odd number years on the last Friday of April, and which is also referred to in these Regulations as the "General Election."
- gg. "Regulations" shall mean the Election Board Regulations, unless otherwise specified.
- hh. "Rejected ballot" means: (i) an unofficial ballot; (ii) a ballot submitted in an Official Election Ballot Envelope without the voter's signature; (iii) more than one ballot placed into one Secrecy envelope or Official Election Ballot Envelope; (iv) a ballot returned in an envelope other than the Official Election Ballot Envelope; or (v) a ballot found to be deficient by the Election Board because of a potential for distorting an election outcome under the procedures governed by these rules.
- ii. "Reside" means to have as one's Primary Residence.
- jj. "Residential address" means Physical Address, as defined in these Regulations.
- kk. "Returned ballot" means a ballot that is returned by the automatic tabulating equipment because the tabulator could not read the ballot, which requires the ballot to be hand counted.
- ll. "Running for office" means being on the ballot in a race for Tribal Council, Tribal Ogema, Tribal Judiciary, or Election Board.

- mm. "Special Election" means any election other than the General Election, called when appropriate or required by the Tribal Constitution, to remove or recall any Elected Official, to fill any vacancy in any Elected Office, or to submit an initiative or referendum to the Tribal membership.
- nn. "Spoiled ballot" means any ballot returned to the Election Board by a registered voter because the voter found the ballot to be unusable, or the ballot was returned torn, damaged or mismarked.
- oo. "Tribe" means the Little River Band of Ottawa Indians.
- pp. "Tribal" means related to, belonging to, or denoting the Little River Band of Ottawa Indians.
- qq. "Tribal Constitution" means the Little River Band of Ottawa Indians Tribal Constitution, as amended.
- rr. "Voting district" means the Nine-County or Outlying District, as those terms are used in the Tribal Constitution.

**Section 3. Definitions of Terms from the Tribal Constitution.** Terms used in the Election Board Regulations that are defined in the Tribal Constitution shall have the definitions used in the Tribal Constitution.

## **CHAPTER 2: REGISTRATION OF VOTERS**

### **Section 1. Application Process for Voter Registration.**

- a. Official Voter Registration Form and Process. An official Voter Registration Form can be obtained by written or verbal request to the Election Board, Muskegon Satellite Building, or at the Enrollment Department. Only Eligible Voters may register. An Eligible voter is any Tribal member who is at least 18 years old or who will turn 18 years old by the date of the next Tribal election and is registered fourteen (14) days prior to the General Membership Meeting. The Tribal Member must file an application to register to vote on the Voter Registration Form approved by the Election Board. Tribal members who are 17 years old may register if they will turn 18 by the date of the election or membership meeting, and they meet the applicable deadline in section (d) or (e), below.
- b. Registered Voter mailing address. The Election Board will send all correspondence regarding any voter registration issues to the eligible or registered voter at the official mailing address maintained by the Enrollment Department. It is the registered voter's responsibility to maintain a current physical and mailing address with the Enrollment Department.
- c. Receipt of Voter Registration Form. All completed voter registration forms shall be date stamped upon receipt. Only an Election Board Member can open a Voter Registration Form envelope.
- d. Deadline for receiving Voter Registration Forms and processing before the date of election. If Voter Registration Form is not received by the Election Board 60 calendar days before an election, the eligible voter will not be registered to vote in that election. The Election Board will resume processing Voter Registration Forms after the election is completed for future voting privileges. The Board is not responsible for the failure of an eligible voter to complete the registration requirements by the prescribed deadlines.
- e. Deadline for receiving Voter Registration Forms and processing before the date of a General Membership Meeting. The Election Board shall make every effort to process Voter Registration Forms before the date of the next scheduled General Membership meeting. The Election Board shall not process Voter Registration Forms during the 14-calendar-day period before the date of a General Membership meeting. The Board is not

responsible for the failure of an eligible voter to complete the registration requirements by the prescribed deadlines.

## **Section 2. Election Board Review and Decision.**

- a. Initial Review. Two Election Board Members shall review each Voter Registration Form. The initial review of the Voter Registration Form includes:
  - i. Verifying the information provided on an official membership list certified by the Enrollment Department, the eligible voter's:
    - (1) Full name;
    - (2) Date of birth;
    - (3) Tribal Identification Number;
    - (4) A copy of their Tribal Identification card;
    - (5) Physical address;
    - (6) Mailing address, if different; and
    - (7) County of residence.
  - ii. Ensuring that the eligible voter has:
    - (1) Provided complete information consistent with that on file with the Enrollment Dept.;
    - (2) Signed the Voter Registration Form in the proper place provided for by the Election Board;
    - (3) The signature is notarized by a Notary Public; and
    - (4) Has attached a copy of their Tribal Identification Card.
- b. Voter Registration Form Review checklist. A Voter Registration Form review checklist shall be compiled for each Voter Registration Form. The Election Board shall review this checklist. Information in the checklist

shall include, but not be limited to, the full name of the eligible voter; whether the necessary information is included in the application; whether the appropriate signatures are notarized; reasons for rejection; and an area for 2 Board members to sign and date, approving or rejecting the Voter Registration Form.

- c. Election Board decision. After the initial review in Section 2.a is completed the 2 reviewing Election Board members shall decide whether the eligible voter is approved for registration.
  - i. Approval. If the eligible voter is eligible for registration, the 2 Board members shall approve, sign, and date the Voter Registration Form review checklist;
  - ii. Once the Voter Registration Form is approved, the Election Board members shall meet with the Enrollment Officer and the Election Board members shall witness the entry of the Voter Registration information into the Enrollment Departments secured data base.
  - iii. Inadequate Information. If the eligible voter has not forwarded enough information to be qualified for registration, the Election Board shall send a letter to the eligible voter informing her/him of the necessary missing information and a deadline for providing such information. It shall be the eligible voter's responsibility to provide the missing information by the deadline stated in order to qualify for the upcoming election or General Membership meeting.
  - iv. Rejection. If the eligible voter is rejected for registration:
    - (1) The Election Board shall state the reasons therefore;
    - (2) The 2 reviewing Board members shall sign and date the Voter Registration Form checklist;
    - (3) The Election Board shall send a letter to the eligible voter stating the reasons for rejection; and
    - (4) The eligible voter may request a hearing, as provided in Chapter 7.
- d. Notification letter. If the Voter Registration Form is accepted, the Election Board will notify the voter by letter. There will be no need for the voter to keep a Voter Registration Card.

- e. **Validity of Voter Registration.** Once an eligible voter has become registered by the Election Board, the voter registration shall be valid for so long as the voter is an enrolled Tribal member, unless the voter notifies the Election Board that he or she no longer wishes to be registered. The registered voter is responsible to maintain a current name and address with the Enrollment Department.

**Section 3. Voter Registration Records.**

- a. **Election Board Seal.** After the Election Board certifies the registered voters, each Registration Form shall be stamped with the Board's seal, and an effective date and expiration date shall be listed.
- b. **Record keeping.** The information on the Voter Registration Form shall be filed in the Tribal members' secured record file in the Enrollment Data Base in the Enrollment Office.
- c. **Name or address change.** If a registered voter changes either her/his first, last, or both names or address, the registered voter is responsible for timely notifying the Tribal Enrollment Department.

## **CHAPTER 3. PROCEDURES TO RUN FOR OFFICE**

**Section 1. Scope.** This Chapter applies to both General and Special Elections.

### **Section 2. Eligibility to Run for Office.**

- a. Tribal Ogema. Any member of the Tribe who is 25 years of age or older, and who has physically resided within the Nine-County District for at least 6 months before the date of the next scheduled election, is eligible to run for the position of Tribal Ogema.
- b. Tribal Council. Any member of the Tribe who is 21 years of age or older, and who has resided within the State of Michigan for at least 6 months before the date of the next scheduled election, is eligible to run for a seat on Tribal Council.
  - i. While only Tribal members living in the Nine-County voting district may vote for a candidate for the Nine-County seat on Tribal Council, a candidate for that seat need not live in the Nine-County District.
  - ii. While only Tribal members living in the Outlying voting district may vote for a candidate for the Outlying seat on Tribal Council, a candidate for that seat need not live in the Outlying District.
  - iii. While Tribal members living outside of Michigan may vote for a candidate for the Outlying and At-Large seats on Tribal Council, any candidate for one of those seats must reside in the State of Michigan.
- c. Judges. Any member of the Tribe is eligible to run for a position as a Tribal Judge provided he or she:
  - i. Is 25 years of age or older; and
  - ii. Does not serve a position as another Elected Office simultaneously

Any non-member of the Tribe is eligible to run for a position as a Tribal Judge provided he or she:

- i. Possesses a law degree; and

- ii. Has practiced in Federal Indian Law or has practiced as a Tribal Judge

All candidates must also:

- iii. Have not been convicted of any crime of dishonesty or moral turpitude, nor been convicted of a felony under Tribal or State Law within the 7-year period immediately preceding the date of the election.
  - iv. Consent to a criminal background check as a condition of eligibility
- d. Additional eligibility requirements for Tribal Court of Appeals. Because of the requirements for the composition of the Tribal Court of Appeals under Article VI Section 3(b) of the Tribal Constitution, the following additional eligibility criteria for candidates for the Tribal Court of Appeals shall apply in particular elections.
- i. If there is no Tribal elder among the judges of the Tribal Court of Appeals who, at the time of an election for a Tribal Court of Appeals seat, are currently holding office and not required to run for re-election to continue holding office, any candidate for the Tribal Court of Appeals during that election must be a Tribal Elder.
  - ii. If there is no licensed attorney among the judges of the Tribal Court of Appeals who, at the time of an election for a Tribal Court of Appeals seat, are currently holding office and not required to run for re-election to continue holding office, any candidate for the Tribal Court of Appeals during that election must be a licensed attorney.
  - iii. If one member of the Court of Appeals is both a Tribal elder and a licensed attorney, then another member must also be either a Tribal elder or a licensed attorney. One person cannot meet both compositional requirements at the same time. However, being both an elder and a licensed attorney would certainly not disqualify a person from being elected to, or serving on, the Tribal Court of Appeals in that situation.

The Election Board will post these additional eligibility criteria with the Notice of Election for a given election.



- e. Election Board. Tribal members who do not hold Elected Office, except for the office of Election Board, and are not running for any other office, shall be eligible to run for and serve as an Election Board member. Election Board members who choose to run for a different Elected Office must resign from the Election Board prior to filing their Declaration of Candidacy.

**Section 3. Prohibition against Running for Two (2) Offices.** No Tribal member may be a candidate for more than one Elected Office at the same time. By way of explanation but not by way of limitation, this prohibition includes running for more than one seat on Tribal Council at the same time. This prohibition also includes running for a seat on Tribal Council and for Ogema at the same time.

**Section 4. Declaration of Candidacy.**

- a. Declaration of Candidacy Form. A person running for Elected Office must file a completed declaration of candidacy on a form approved by the Election Board. The official Declaration of Candidacy Packet may be obtained by written or verbal request to the Election Board or its designated representative.
- b. Candidate mailing address. All letters in regards to any Declaration of Candidacy information shall be sent to the member at the address identified on the Declaration of Candidacy Packet.
- c. Deadline for filing Declaration of Candidacy Packet. The deadline for filing a Declaration of Candidacy Form for a specific election shall be set by the Election Board in its written announcement of that particular General or Special Election.
- d. Contents. The Declaration of Candidacy Packet shall include, but need not be limited to:
  - i. The name of the member as it will appear on the official ballot;
  - ii. A sworn statement by the candidate certifying that the candidate:
    - (1) Meets the qualifications set forth in this Chapter;
    - (2) Has read and understands these regulations;

- (3) May be removed as a candidate in the event his or her declaration contains a false statement;
  - (4) Understands that if he or she violates the campaign finance rules that he or she can be removed from the ballot, prohibited from being sworn in, and/or prosecuted for election fraud; and
  - (5) Understands that if he or she fails to turn in a campaign finance report by the cut-off date, that he or she can be prohibited from running for office in future elections
- iii. Contact information, including Physical address, mailing address, home phone number, and work phone number (if applicable). The Physical address shall be for the candidate's primary residence, and the candidate shall provide proof of their primary residence in the form of a copy of their driver's license or similar identification.
  - iv. If the candidate wishes to have their photograph and biography included in the Tribal Currents and/or other Tribal Government-sponsored informational materials concerning the election, the candidate must include the photograph and biography in their candidate packet.
- e. Public record. A Declaration of Candidacy Packet shall be a matter of Tribal record, and shall be kept on file with the Election Board, for two years.

**Section 5. Receipt of Declaration of Candidacy Packet.** The Election Board, or its designated representative at the Enrollment Department, shall date stamp all Declaration of Candidacy Packet upon receipt. An acknowledgment of receipt of the form shall be given to the person who delivers it, or mailed to the candidate if the form is received by mail.

**Section 6. Certification of Candidates.**

- a. Timing of certification. Within 14 Calendar days of the close of the Declaration of Candidacy period, the Election Board will certify the slate of candidates for the election. The Election Board will promptly post the names of candidates after certifying the slate.

- b. Verified candidates. Only the names of verified, declared candidates meeting all necessary qualifications for the elected office they seek will appear on the Election Ballots. No write-in candidates will be allowed.
- c. Unopposed candidates. In the event that only one (1) candidate files for an elected office position, he or she will be placed on the ballot as an unopposed candidate.
- d. Candidate withdrawal. In order that ballots can be prepared in a timely manner, a candidate who withdraws from the election must withdraw no later than 7 calendar days after the slate of candidates is certified.
- e. Consent to Election Board's jurisdiction. All candidates for office shall be subject to the jurisdiction of the Election Board and these regulations, including but not limited to the Election Board's jurisdiction over election disputes, election challenges, and investigations. All candidates for office shall be required to cooperate fully with Election Board investigations.

### **Section 7. Primary.**

- a. Trigger for primary election during a general election.
  - i. For Tribal Ogema: A primary shall be held if the Election Board verifies there are more than two (2) candidates for the office of Tribal Ogema. If there are only two (2) verified candidates they will proceed to the general election.
  - ii. For all other offices: If the Election Board verifies more than three candidates for any open seat, then a primary shall be held.
- b. Procedures. The primary shall be held by mail only, using the procedures for ballots and vote counting from Chapter 4 of these rules. Time periods for the mailing and collection of primary ballots will be set by the Election Board when it announces the primary.
- c. Results. The Election Board shall post primary results using the procedures from Chapter 4 of these rules.
  - i. For the office of Tribal Ogema, the top two (2) vote-getters will appear as candidates in the general election.
  - ii. For all other offices, only the top three (3) vote-getters per open seat will appear as candidates in the general election. By way of

example but not by way of limitation, if two seats are open on the Tribal Council in the 9-County district, and a primary is held, then the top six (6) vote-getters in the primary will appear as candidates in the general election.

- d. Recounts, disputes and challenges. Recounts and disputes will be handled using the procedures from these rules. Any challenge to a primary result will be handled as an election dispute.
- e. Primary Election applies only to a General Election. A primary election shall take place only during a General Election. Due to the 3 month time limitation for conducting a Special Election there is insufficient time to conduct a primary election.

## **CHAPTER 4. CONDUCTING ELECTIONS**

### **Section 1. Timing of Elections.**

- a. General Elections. There shall be a General Election every two (2) years on the last Friday of April, unless otherwise scheduled by the Election Board.
- b. Special Elections. There shall be a Special Election whenever a vacancy exists in any Elected Office that cannot be filled by appointment through the procedures outlined in the Tribal Constitution. There shall also be a Special Election whenever one is determined necessary to conduct a referendum, recall or other election besides a General Election.

### **Section 2. Announcement of Elections.**

- a. Announcement of a General Election. The Election Board will prepare and post an announcement of a General Election at least 154 calendar days before Election Day.
- b. Announcement of a Special Election. The Election Board will prepare and post an announcement of a Special Election promptly after receiving proper notification that such an election must be held under Section 1(b) of this Chapter.
- c. Contents of Election Announcement. An election announcement will include:
  - i. The date of the election;
  - ii. The location of any polling place for voting in person, if applicable, and the hours the polling place or places will be open;
  - iii. The offices or vacancies to be elected;
  - iv. The time limits and deadlines set for each stage of the election process;
  - v. Any other information the Election Board, in its discretion, believes to be pertinent.

**Section 3. Voting Districts.** The following Tribal members are eligible to vote for candidates for the following Tribal Council seats.

- a. Nine-County District voters. Voters in the Nine-County District will be entitled to cast one vote for each Tribal Council vacancy in the Nine County District; one vote for each At-Large vacancy on Tribal Council; the Tribal Ogéma vacancy, if any; each vacancy on the Tribal Judiciary; and each vacancy on the Election Board.
- b. Outlying District voters. Voters in the Outlying District will be entitled to cast one vote for each Tribal Council vacancy in the Outlying District; each At-Large vacancy on Tribal Council; the Tribal Ogéma vacancy, if any; each vacancy on the Tribal Judiciary; and each vacancy on the Election Board.

**Section 4. Ballots.**

- a. Voting by mail or in-person. For a primary election, the Election Board will provide for ballots to be cast by mail. For a general election, the Election Board will provide for ballots to be cast by mail, and in person. For a special election, the Election Board will determine the method of voting through the election announcement.
- b. Prevention of duplicate voting. The Election Board will use bar codes or other appropriate technology approved in consultation with the election services contractor to prevent any single Tribal member from voting twice in the same election.
- c. Completing ballot. Each voter shall complete the ballot by following the instructions enclosed with the Ballot. A voter may not select more candidates for any office than is indicated under the title of each office, or no vote will be counted on that voter's ballot for that office.

**Section 5. Voting by Mail.**

- a. Polls. For voting by mail, the homes of registered voters shall be considered polls for purposes of Article IX, Section 3(b) of the Tribal Constitution.
- b. Timing of ballots:

- i. Mailing ballots. Ballots will be mailed to all registered voters on a date to be determined by the Election Board, but no later than 21 days before Election Day. It is the responsibility of the registered voter to contact the Election Board to obtain missing ballots and, if approved, replacement ballots.
    - ii. Receiving ballots. To be counted, completed mail ballots must be received by the Election Board, at its post office address, before noon on Election Day. It is the responsibility of the registered voter to verify that ballots are mailed in a timely fashion to meet the deadlines.
  - c. Completing a mail ballot. Each election mailing to a registered voter shall contain two envelopes and one ballot, and instructions for the voter to complete the ballot. After completing the ballot, the voter shall fold the ballot, place the ballot in the Secrecy Envelope and seal the envelope.
    - i. Only one ballot should be placed in each Official Election Ballot Envelope.
    - ii. The Secrecy Envelope shall be placed in the Official Election Ballot Envelope and the voter shall seal the Official Election Ballot Envelope.
    - iii. The voter shall sign the statement printed on the back of the Official Election Ballot Envelope and shall mail the Envelope.
  - d. Replacement Ballots. A registered voter may request a replacement ballot for a spoiled ballot if the voter informs the Election Board not less than 14 calendar days before the date of the election. The decision of whether to issue a replacement ballot is at the Election Board's discretion, and there is no right to a replacement ballot. The Election Board shall keep a list of persons to whom replacement ballots were issued, in addition to using appropriate technology to prevent any single Tribal member from voting twice in the same election.

## **Section 6. Voting in Person.**

- a. Time and place. In-person voting shall take place on Election Day at a polling place designated by the Election Board. The Election Board will so set the hours during which the polling place will be open on Election Day.

- b. Election Board supervision. At least 2 members of the Election Board shall be present during in-person voting.
- c. Sign-in. The Election Board shall have a list of registered voters at each polling place. Each registered voter wishing to vote in person shall sign his or her name on a sign-in sheet and an Election Board member shall verify that the name is on the list of registered voters. An Election Board member shall require that any potential in-person voter present his or her Tribal Identification Card or driver's license before voting if picture identification is necessary for the Election Board member to verify that voter's identity.
- d. Voting. After signing in, each registered voter will be issued a ballot. The voter may receive assistance from an Election Board member in voting if requested. The voter will use the pens provided by the election services contractor to fill out his or her ballot. The voter's ballot will be fed through the automated ballot tabulator as soon as the voter completes the ballot. If the automated ballot tabulator rejects the ballot, the Election Board will issue the voter a new ballot as outlined in sub-section (e), below. The Election Board will use bar codes or other appropriate technology to ensure that if the voter has also cast a mail ballot then the in-person ballot will not be counted.
- e. Mistakes on ballots. If a voter accidentally makes a mistake or mutilates his or her ballot, the Election Board may issue a new ballot to the voter. The Election Board will keep a list of any voters to whom new ballots were issued. The old ballot will be treated as a Spoiled Ballot under Section 7(c) of this Chapter. If a voter brings in a ballot received by mail to vote in person, the voter will be issued a new ballot and the ballot he or she brought in will be treated as a Spoiled Ballot.
- f. Location of in-person voting. The Election Board will provide screening or other methods to ensure privacy in the selection of candidates during in-person voting. If in-person voting is occurring at the same time that mail ballots are being processed or counted, the areas where these two activities are occurring shall be physically separated by ropes, tables, separate rooms or other means.

## **Section 7. Counting the Ballots.**

- a. Transfer of Ballot Box. The Election Board, a representative of the election services contractor, and a Little River Band of Ottawa Indians Police Officer shall meet at 12:00 noon at a designated Tribal Building on



Election Day to pick up the mail from the post office and transport it to the ballot-counting location.

- b. Public observation of the ballot counting. The Election Board shall be located in an area that can be viewed, but not entered, by the public. The Board may, but is not required to, videotape or stream the ballot counting and tabulating. No other person may videotape or stream the ballot counting and tabulating. The ballot tabulating and counting procedures shall be witnessed by a Little River Band of Ottawa Indians Police Officer, who shall remain until the count of ballots is completed, certified, and announced. Any person causing a disturbance, for any reason, shall be removed from the viewing of the election process. The determination of whether a person is causing a disturbance shall be at the sole discretion of the Election Board.
- c. Spoiled Ballots. The Election Board shall place all Spoiled Ballots in a separate envelope marked "Spoiled Ballots." The Election Board shall retain and secure all Spoiled Ballots until the next Election.
- d. Upon Opening the Ballot Box. Before counting the mail-in ballots, the Election Board shall review the ballot envelopes to ensure that each envelope is signed. Upon opening the Ballot Box, Election Board Members shall separate the mail into 5 categories with the help of the representative from the Election contractor:
  - i. Official Election Ballot Envelopes that have been noted by the Post Office as undeliverable;
  - ii. Official Election Ballot Envelopes that have not been signed by the voter, or that contain more than one signature;
  - iii. Any mail other than ballot envelopes that was placed in the ballot box by the Post Office;
  - iv. Election ballots contained in envelopes other than the Official Election Ballot Envelopes; and
  - v. Accepted Official Election Ballot Envelopes.

Only accepted Official Election Ballot Envelopes shall be reviewed further. All other categories shall be rejected.

- e. Review of contents of Official Election Ballot Envelopes. The purpose of the second review shall be to determine if the returned envelopes contain more than one Secrecy envelope or ballot.
  - i. The representative of the election services contractor shall open the Official Election Ballot Envelope with the automatic letter opener. Ballot envelopes that cannot be opened automatically will be manually opened by Election Board members.
  - ii. Election Board members shall remove the Secrecy Envelope from the Official Election Ballot Envelope.
  - iii. Election Board members shall determine if more than one Secrecy envelope has been placed in each Official Election Ballot Envelope.
  - iv. If more than one Secrecy Envelope is enclosed, the Official Election Ballot Envelope and the enclosed Secrecy Envelopes shall be rejected.
  - v. If a ballot is in the Official Election Ballot Envelope but not in a Secrecy envelope, the voter's right to secrecy in the selection of candidates will be considered to be waived, but the Election Board will not reject the ballot. The Election Board will take steps it determines to be prudent to attempt to protect the secrecy of that voter's selection of candidates.
- f. Review of Contents of Secrecy Envelopes. The purpose of the third review shall be to determine if the Secrecy Envelope contains more than one ballot.
  - i. The representative of the election services contractor shall open the Secrecy Envelope with the automatic letter opener. Secrecy envelopes not opened automatically shall be manually opened by the Election Board.
  - ii. If more than one ballot is enclosed, all ballots in that Secrecy Envelope shall be rejected.
- g. Rejected Ballots. The Election Board shall place all rejected ballots into a separate envelope marked "Rejected Ballots," and shall seal the envelope. The Election Board shall retain and secure the Rejected Ballots envelope.
- h. Machine Count of mail-in ballots. After review of the envelopes, Election Board members shall remove each ballot from the Secrecy Envelope. The

Election Board shall use an automated ballot tabulator to count the ballots, using the following procedure:

- i. Election Board members shall place the ballots in the automated ballot tabulator until all accepted ballots have been tabulated.
  - ii. When this process is finished, the electronic totals and tallies shall be completed by the representative of the election services contractor.
  - iii. All ballots not accepted by the automated ballot tabulator will be set aside until the electronic tallying process is complete.
  - iv. If the automated ballot tabulator(s) do not function and cannot be repaired, the Election Board will count the votes by hand.
- i. Machine count of in-person ballots. All in-person ballots will be counted by a separate automated ballot tabulator using the procedures in subsection (h)(i)-(ii), above. No tallies of any machine-counted ballots will be revealed to the Election Board until after the hand count of the mail-in ballots is complete. Unless the automated ballot tabulators malfunction, no hand count of in-person ballots will be necessary because any ballots rejected by the automated ballot tabulator will be replaced and re-voted as outlined in Section 6(d) of this Chapter.
- j. Hand count of mail-in ballots. Once the electronic tallying of mail-in ballots is complete, the mail-in ballots that were not accepted by the automated ballot tabulator will be reviewed by the Election Board by hand. For each vote on each ballot, the Election Board will determine whether the intent of the voter can be clearly determined, and if so, the Election Board will give credit to that vote.
- i. If the intent of the voter can be determined for one or more vacancies on an individual ballot but not others, the Election Board may credit the votes for only those vacancies. The purpose of this sub-section is to give effect to the intent of a voter wherever possible, even if other votes on that person's ballot must be rejected in a hand-count.
  - ii. All decisions of the Election Board during a hand-count shall be announced to those in attendance. The ballots shall be made available for review to those in attendance if desired. No public comment shall be made or accepted during the hand-count process.

- iii. All Election Board decisions during a hand-count shall be final, except for allegations of impropriety, which may be reviewed by the Tribal Judiciary.
- k. Totaling the votes. Once the Election Board has reviewed the ballots by hand, it will determine the hand-count tally and provide those numbers to the election services contractor. The election services contractor will add the electronic tally of mail-in votes, the electronic tally of in-person votes, and the hand-count tally to obtain a complete tally.
- l. Ties. In the event of a tie in the number of votes for any vacancy that is up for election other than Tribal Ogema, the Election Board shall conduct an automatic recount under Chapter 6 of these regulations. If the votes for the vacancy are still tied after the recount, a Special Election will be held for the run off.

#### **Section 8. Election Results.**

- a. Tribal Ogéma. The Tribal Ogéma shall be the candidate seeking the elected office who receives a majority of the Tribal votes cast for that position. If no one candidate receives a majority of the votes cast, a run-off election shall be held between the two candidates who received the greatest number of votes.
- b. Tribal Council. For each voting district, the Tribal Council candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received.
- c. Election Board. The Election Board candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received.
- d. Tribal Judiciary. The Tribal Judiciary candidate(s) receiving the greatest number of votes shall be elected to fill each vacancy according to the rank order of votes received. However, when there are additional eligibility requirements for a Tribal Court of Appeals vacancy under Section 2-4 of Chapter 2 of these Regulations, the candidate receiving the most votes for that particular eligibility category shall be elected to fill that vacancy.

## **Section 9. Retaining Election Records.**

- a. Sealing of ballot box. Upon completion of the ballot tabulation and count process, all envelopes, ballots, and reports shall be sealed in a ballot box, and the ballot box locked in a fireproof safe, or in the Tribal Police evidence locker.
- b. Opening of sealed ballot box. The sealed ballot box shall be opened only in the presence of a quorum of the Election Board.
- c. Destruction of contents of sealed ballot box. The ballots and envelopes shall be retained and held by Tribal Police for two years and then destroyed.

## **Section 10. Announcement of Tentative Election Results.**

- a. Announcement and posting. The Election Board shall announce the tentative results of a primary, general or special election within 72 hours of the final tabulation of the counts.
- b. For a general or special election, the announcement shall contain the following statement:

“The election results posted here are tentative results. Final election results shall be forwarded by the Election Board to the Tribal Ogéma, the Tribal Council, and the Tribal Court in a Final Report after the scheduled time for recount petitions and election challenges has lapsed, or after all challenges or recounts have been completed, whichever is longer.”
- c. The Election Board shall post the announcement in the designated locations, with the exception of the Tribal newspaper and website. The announcement shall be posted in the Tribal newspaper and website within a reasonable time.

## **Section 11. Withdrawal by Winning Candidate.**

- a. Withdrawal after primary election. A candidate who advances as a result of a primary election may withdraw within ten calendar days after the primary election. If a candidate withdraws, the candidate for that elected office with the highest vote total who did not advance will advance in place of the candidate who withdrew.

- b. Withdrawal after general election. A candidate who prevails in a general election may withdraw within ten calendar days after the general election. If a candidate withdraws, the candidate with the highest vote total for that elected office who did not win election to the office will be deemed to be elected.
- c. Ties among runner-up candidates. If there is a tie between the candidates for the elected office with the next-highest vote total after a withdrawal, the tie will be broken using the procedures in Section 7.1 of this Chapter.

## **Section 12. Reporting Election Results.**

- a. Primary Election. The Election Board shall report final results of the primary election after the scheduled time for recounts and withdrawals has passed, using the same procedure that is used for the announcement of tentative election results. If disputes or challenges to a primary election are pending, the Election Board may in its discretion suspend the remainder of the election schedule until those matters are resolved, but the Board is not required to do so.
- b. General or Special Election. The Election Board shall prepare a Final Report consisting of the following information:
  - i. Total number of registered voters;
  - ii. Number of ballots issued;
  - iii. Number of ballots received;
  - iv. Number of "undeliverable" Official Election Ballot Envelopes;
  - v. Number of spoiled ballots and rejected ballots;
  - vi. Total votes cast for each candidate;
  - vii. List of ties and final results of the tie;
  - viii. List of candidates elected and position elected to.
- c. Approval. The Election Board shall vote on whether to approve the Final Report after the scheduled time for withdrawals, recount petitions and

election challenges has lapsed, or after all recounts and/or challenges have been completed, whichever is longer.

- d. Forwarding and Posting. After approval, the Election Board shall forward the Final Report to the Speaker of the Tribal Council, the Tribal Recorder, and the Tribal Ogéma. The Election Board shall also post the Final Report at the Election Board office and ask Public Affairs to post it on the Tribal website. The Final Report will indicate that it is being provided as required by the Tribal Election Ordinance.

## CHAPTER 5. CAMPAIGN FINANCING

**Section 1. Scope.** This chapter applies to all election campaigns. The prohibitions in this chapter apply to both giving and receiving contributions.

**Section 2. Allowable Contributions.** A candidate, the principal sponsor of a petition drive, initiative, recall or referendum election, or the target of a recall petition or election may solicit and accept funds or other contributions for an election campaign under these conditions:

- a. Only individuals may make contributions to election campaigns.
- b. Only Tribal members, members of a candidate's immediate family, or members of the immediate family of the target of a recall petition or election may make contributions to election campaigns. This includes in-kind contributions except as specified below. Funds received from immediate family members may not be derived from other individuals or organizations.

**Section 3. Endorsements.** A candidate, the principal sponsor of a petition drive, initiative, recall or referendum election, or the target of a recall petition or election may obtain written or verbal endorsements from any person.

### **Section 4. Campaign Spending and Contribution Rules .**

- a. Spending limits for candidates in a general or special election. The following sums shall be the maximum amounts that may be spent by or on behalf of any candidate in an election:
  - i. Ogema: \$10,000.
  - ii. Tribal Councilor:
    - (1) At-Large District: \$7,500.
    - (2) Nine-County District: \$5,000.
    - (3) Outlying District: \$5,000.
  - iii. Tribal Judiciary (any office): \$10,000.
  - iv. Election Board: \$7,500.



- b. Spending limits for recall efforts. A principal sponsor, or a group of principal sponsors if there are more than one, shall spend no more than \$5,000 on the recall of any one elected official, including both the petition drive and any election. An elected official may spend no more than \$5,000 on his or her defense of a recall, including both the petition drive and any election.
- c. Spending limits for initiatives. A principal sponsor, or a group of principal sponsors if there is more than one, shall spend no more than \$5,000 on any initiative, including both the petition drive and any election. An individual, or any identifiable group, shall spend no more than \$5,000 in resisting any initiative, including both the petition drive and any election.
- d. Spending limits for referendums. A principal sponsor, or a group of principal sponsors if there is more than one, shall spend no more than \$5,000 on any referendum. An individual, or any identifiable group, shall spend no more than \$5,000 to oppose any referendum.
- e. In-kind contributions. Any in-kind contributions shall be counted toward that campaign spending limit at the equivalent cash value of the in-kind contribution. The following items are exceptions to this rule which do not count toward the campaign spending limit and need not be reported:
  - i. Volunteer time provided by other Tribal members or members of a candidate's immediate family.
  - ii. Necessary personal travel expenses of a candidate or principal sponsor or petition circulator provided by that candidate.
  - iii. Radio, television or public forum time that is donated or offered on an equal basis to all candidates for any particular office.
- f. Limits on individual contributions. No person may give more than the following amounts in any one election:
  - i. General and special elections for candidates: \$200.
  - ii. Recalls, including both petition drive and election, and including an elected official's defense of a recall: \$1,000.
  - iii. Initiatives, including both petition drive and election: \$200.
  - iv. Referendums: \$200.

These limits include contributions, in-kind contributions, and combinations of the two.

- g. Limits on volunteer time by persons other than Tribal members or members of a candidate's immediate family. No candidate, elected official, or principal sponsor may accept more than 20 total hours of volunteer time from any person or combination of persons who are not Tribal members or members of that person's immediate family.
- h. Ban on certain kinds of campaign contributions.
  - i. No person who has any matter pending before the Tribal Court or Tribal Court of Appeals may give any contribution or in-kind contribution to any candidate running for election or re-election to the Tribal Judiciary, and no person may receive any such contribution. No candidate for any Elected Office may give any contribution or in-kind contribution to any candidate running for election or re-election to the Tribal Judiciary, and no person may receive any such contribution.
  - ii. No person who holds Elected Office, who is running for Elected Office, or who is sponsoring a recall or circulating recall petitions may give any contribution or in-kind contribution to any candidate running for election or re-election to the Election Board, and no person may receive any such contribution. No member of the Election Board, or candidate running for the Election Board, may give any contribution or in-kind contribution to any candidate for any office.
- i. Responsibility of candidates. Each candidate is responsible for ensuring that every person acting on the candidate's behalf complies with all the requirements of this chapter.

## **Section 5. Reporting Requirements.**

- a. Campaign finance report requirement. The following persons shall file a campaign finance report with the Election Board not more than 5 Business days after the election:
  - i. Each candidate whose name appears upon the official ballot in any election;

- ii. Each principal sponsor or group of principal sponsors in a recall, referendum or initiative effort;
  - iii. Each elected official who is the target of a recall attempt; and
  - iv. Each person or group who spends money for or against an initiative or referendum question. There is no requirement to file a campaign finance report for an initiative or referendum issue unless an election is actually held.
- b. The campaign finance report shall be on a form approved by the Election Board, and shall require the person filing it to sign a sworn statement that all of the information in the Campaign Finance Report is true. Sanctions for failing to comply with the report requirements are addressed in Section 6.
- c. Contents. The campaign finance report shall include the following information:
- i. For each contribution, the name of the person who made the contribution, the date of the contribution, and the amount;
  - ii. A list of any future promises to pay a contribution;
  - iii. Copies of receipts or equivalent documentation for each contribution;
  - iv. A list of each in-kind contribution, except for those that are not required to be reported under section 4(b) of this chapter, including the name of the person who made the in-kind contribution, the type of in-kind contribution, the date it was made, and the equivalent value.
  - v. A list of all volunteer time contributed by persons other than Tribal members or members of a candidate's immediate family, including the name of each volunteer, the volunteer's relationship to the candidate (personal, professional or otherwise), and the time spent; and

## **Section 6. Penalties.**

- a. Failure to file a campaign finance report.
  - i. The candidate receiving the greatest number of votes in any election shall not receive a Certification of Election, and shall not be eligible to take office, until he or she files an accurate campaign finance report and the Election Board Verifies that the candidate complied with all the requirements of this chapter. The Election Board will send a Letter telling the candidate that the Election Board has not received their Campaign Finance Report. This letter will be put in their file.
  - ii. Any person who does not file an accurate campaign finance report within 21 days of Election Day will be contacted in writing by the Election Board. The Election Board will accept late campaign finance reports for 90 days following Election Day. After 90 days, no additional reports will be accepted. Any person does not file their campaign finance report will not be permitted to submit a Declaration of Candidacy or certified as a candidate in the next General Election.
- b. Exceeding campaign spending expenditure limit. A person who knowingly exceeds a campaign spending limit shall forfeit the election.
- c. Accepting banned campaign contributions. A person who a knowingly accepts any kind of banned campaign contribution prohibited by Section 4(h) shall forfeit the election.
- d. False information or fraud. A candidate who knowingly submits false information on a campaign finance report shall forfeit the election. The Election Board will refer any credible allegations of election fraud to the Tribal Prosecutor.

## **Section 7. Investigations and Hearings.**

- a. Investigations. The Election Board may in its discretion investigate possible violations of the requirements of this chapter. Any person investigated under this chapter shall cooperate with any requests made by the Election Board that are related to such an investigation, including but not limited to answering questions verbally or in writing, or providing receipts or other documentation.

- b. Hearings. Any hearings held by the Election Board related to campaign financing will be conducted using the hearing procedures found in Chapter 7 of these regulations.
- c. The Election Board may – but is not required to – publish a list of persons who did not file Campaign Finance Reports in a timely manner.

## **CHAPTER 6. DISPUTES, RECOUNTS AND CHALLENGES**

### **Section 1. Election Disputes.**

- a. "Election Dispute" means any Election dispute other than that which challenges the outcome of an Election. The object of an Election dispute is to affect how a Tribal election is conducted as the election process moves forward. Election disputes generally occur before the ballots are counted.
- b. Filing an Election Dispute. Any registered voter or candidate may file an election dispute by filling out and submitting the form provided by the Election Board. The form may be requested from the Election Board in person or by mail.
- c. Timing of Election Disputes. An election dispute may be filed at any time during the election process. The Election Board may, in its discretion, treat an election dispute that is filed late in the election process as an election challenge.
- d. Procedure for Election Disputes. The Election Board will investigate and decide Election Disputes using the procedures in Chapter 7 of these regulations.

### **Section 2. Recounts.**

- a. Automatic Recount. If the tentative results reflect that a candidate for any office was defeated or eliminated by 1% or less of the votes counted for that office, the Election Board will hold an automatic recount of the vote for that office immediately following the original count. The Election Board may decide, in its discretion, to hold an automatic recount for any other particular elected office on Election Day. If an automatic recount is held, no candidate may file for a recount for that office.
- b. Filing for a Recount. A losing candidate for elected office may file for a recount of the votes for that office by filling out and submitting a form provided by the Election Board. The recount form must be requested in person. The recount form must be received by the Election Board within five business days of the announcement of the tentative election results. The Election Board shall review the request for a recount and, if it appears likely that error or fraud has occurred, the Election Board will conduct a

recount. If it does not appear likely that an error or fraud has occurred, no recount will be held.

- c. Notice of Recount. For a recount other than an automatic recount, the Election Board shall notify the candidates for an elected office that is being recounted of the date, time and location of a recount based on a candidate request. The Election Board shall post the date, time and location of the recount.
- d. Method for Recount. The Election Board will determine the method of conducting a recount that was requested by a candidate based on what is appropriate under the circumstances. The sealed security box shall be returned by the Tribal Police on the date and to the place designated for the recount. Ballots shall be removed from the security box and recounted. The recount process shall be open to the public in the same way the ballot counting process is open to the public for an election. There shall be no video recording or streaming of the recount.

### **Section 3. Election Challenges.**

- a. "Election Challenge" Means a direct challenge to the results or outcome of an election itself. The object of the challenge is to affect the outcome of an election. Election challenges generally occur after the ballots are counted.
- b. Filing an Election Challenge. Any registered voter or candidate may file an election challenge by filling out and submitting the form provided by the Election Board. The form may be requested in person or by mail.
- c. Timing of Election Challenges. An election challenge may be filed within 5 business days following the announcement of the tentative election results.
- d. Procedure for Election Challenges. The Election Board will investigate and decide Election Challenges using the procedures in Chapter 7 of these regulations.

## **CHAPTER 7. HEARINGS**

### **Section 1. Scope.**

- a. Scope. This chapter shall apply to all Election Disputes and Election Challenges, as well as all other complaints about elections and all decisions that the Election Board is authorized or required to make after a hearing. This chapter shall not apply to allegations of impropriety.
- b. Waiver. Any complaint that is not filed and pursued with the Election Board under these rules is waived.
- c. Impropriety. Allegations of impropriety against the Election Board must be made to the Tribal Judiciary.

### **Section 2. Hearing Officer.**

- a. Hearing Officer. The Election Board may hire a Hearing Officer to preside over hearings and issue proposed decisions.

### **Section 3. Request for Hearing.**

- a. Request for Hearing. Any Tribal member or candidate for Elected Office may request a hearing by filling out and submitting a request on a form provided by the Election Board. The form may be requested from the Election Board in person or by mail.
- b. Review of Hearing Request. The Election Board or its Hearing Officer will review requests for hearing. Based on the review, the Election Board or Hearing Officer shall either set the Complaint for a Hearing or shall issue a written Proposal for Decision without a hearing if a hearing is not appropriate under the circumstances.



#### **Section 4. Notice.**

- a. Notice of a Hearing. The Election Board or its representative will send a letter to notify the Tribal Member who requested a hearing of the date and time set for the hearing.
- b. Contents of Hearing Notice. The hearing notice shall contain
  - i. the date, time and location of the hearing; and
  - ii. the procedures to be used for the hearing, including whether there will be testimony from witnesses.

#### **Section 5. Hearings.**

- a. Procedure. The Election Board or its Hearing Officer will set procedures for a hearing that are appropriate under the circumstances. These procedures may include some or all of the following:
  - i. Opening statements
  - ii. Presentation of evidence and/or witnesses by the Election Board Attorney and the person who requested the hearing.
  - iii. Cross examination when appropriate
  - iv. Questions for Election Board members, the Election Board Attorney, witnesses, or the person who requested the hearing.
  - v. Closing statements.
- b. Default. If the person who requested the hearing does not attend the hearing, and does not have a valid reason for not attending the hearing, that person will be found to be in default. A default will be considered to be a waiver under Section 1(b) of this Chapter.

- c. Record. A record shall be compiled before and at the hearing by the Election Board's Attorney. The person requesting the hearing shall be entitled to receive a copy of the record. The record will consist of all documents submitted in connection with the hearing and all other documents determined by the Election Board to be relevant to the subject of the hearing. The Hearing Officer shall make the proposed decision based only on the record.
- d. Witnesses. If the Election Board has determined that it is appropriate to include the testimony of witnesses, both the person requesting the hearing and the Election Board Attorney may present witnesses as necessary. Witnesses shall take an oath. No witness may be subpoenaed or forced to testify, but instead may testify under his or her own free will. Witnesses may choose to refuse to answer any question for any reason. A witness who refuses to answer questions or becomes disorderly may be asked to step down.
- e. Proposed Decision. The Hearing Officer shall issue a written proposed decision setting out his or her findings of fact, and granting or denying the Complainant's requested relief.
- f. Recording the Hearing. The Election Board may record a hearing electronically. If a recording is made, it will be made available to any participant who requests it. Any person may have a hearing transcribed at his or her own expense.

## **Section 6. Decisions.**

- a. Review of Proposed Decision. The Election Board shall review the proposed decision and the record at a time no later than its next regularly scheduled meeting. The Election Board shall decide by roll-call vote whether to accept, reject, or modify the proposed decision. The Election Board may give persons who participated in the hearing the opportunity to respond to the proposed decision, either in writing or through comments at the meeting or both.
- b. Final Decision. The Election Board's decision to accept, reject or modify the proposed decision shall be the final decision. The minutes of the meeting where this decision takes place shall be part of the record.

## **CHAPTER 8. MEMBERSHIP MEETINGS**

### **Section 1. Verification of Registered Voters.**

- a. Date of Verification. All verification of registered voters shall take place on the date of the scheduled General Membership Meeting.
- b. Verification Process. The Tribal Enrollment Department shall provide to the Election Board a prepared final list of all Tribal registered voters prior to the date of the scheduled General Membership Meeting.
- c. Ability to Vote. To be able to vote on any potential Tribal business conducted at the General Membership Meeting, a Tribal member must previously be registered and certified as a Registered Voter by the Election Board pursuant to the procedures established by Chapter 2 of these Regulations.
- d. Tribal Identification Card Required. A Tribal member must have a current Tribal Identification Card which contains electronically verifiable information, including voter registration status.
- e. Tribal Registered Voters will be required to have wristbands applied before entering the Membership Meeting.
- f. Tribal Identification Card Available from Enrollment Department. In the event a Tribal member does not have a current Tribal Identification Card, a Tribal member must obtain a Tribal Identification Card from the Tribal Enrollment Department, and may be required to pay a replacement card fee.

### **Section 2. Process for Verification of Registered Voters in Attendance.**

- a. Count to Confirm Registered Voters Present. In order to assure that an accurate count of the number of registered voters are present within the meeting room where the General Membership Meeting is to take place, the Election Board shall identify each registered voter and keep an accurate tally by requiring the electronic swiping of Tribal Identification Cards upon entering and exiting the meeting room, or if necessary for verification purposes if the Ogema determines that a quorum count is required.

- b. Entry and exit to the meeting room shall be limited to assure that an accurate tally of the registered voters can be maintained.
- c. At the time established by the Tribal Ogema at the General Membership Meeting for members to propose and act upon Ordinances or Motions pursuant to Article VII, Section 1 (a)(3) of the Constitution, and at such times thereafter when the Tribal Ogema requests that a quorum determination be provided, the Election Board shall provide a certification of the total number of registered voters together with the number of registered voters then in attendance and whether the constitutionally required thirty percent (30%) of registered voters is then in attendance at the General Membership Meeting.

### **Section 3. Certification of Registered Voters in Attendance.**

- a. Determination of Registered Voters Present. The Election Board shall review the number of registered voters confirmed as present at the Membership Meeting at the time of the request through use of the electronically generated report of registered voters present.
  - i. When the Election Board members agree upon the accuracy of the report, a quorum of the Board shall take a motion to confirm the total count.
  - ii. The Chairperson of the Election Board, or an Election Board member designated by the Chairperson, shall complete a written certification, with 3 originals, of the count. The Election Board may rely upon information from the Enrollment Department for items iii(1) and (2), below.
  - iii. The certification shall include:
    - (1) The total number of Tribal registered voters.
    - (2) The total number of registered voters constitutionally-required (30%) to be in attendance to act upon a Motion and/or Ordinance put before the membership at the meeting.
    - (3) The total number of verified registered voters in attendance at the time of the request.

- (4) The Election Board vote on the motion confirming the count of registered voters in attendance at the time of the request.
    - (5) Each Election Board member present for the vote on the motion shall sign 3 original certifications.
  - vi. The certifications shall be distributed as follows:
    - (1) One original of the certification shall be provided to the Tribal Ogema for Membership Meeting purposes.
    - (2) One original shall be provided to the Tribal Enrollment Officer for the Tribal Records.
    - (3) One original shall be kept and filed by the Election Board.
  - vii. If the certification shows a total count of less than 30% of the Tribes registered voters in attendance at the General Membership Meeting at the time of the request, the Election Board's business shall be concluded.
  - viii. If there is a verified count of at least 30% of the Tribe's registered voters in attendance at the time of the request, then a quorum of the Election Board shall remain until the close of Tribal business to conduct any voting procedures on matters brought forward for action by the membership.
- b. **Persons Removed from Meeting.** If a Registered Voter is removed from the meeting for any reason but permitted to remain on the property, he or she will still be counted towards a quorum if he or she chooses to remain present on the property in an area designated for this purpose.

#### **Section 4. Secret Ballot Voting.**

- a. **Voting Procedures.** A quorum of the Election Board shall conduct secret ballot voting procedures and shall establish polls if a Motion and/or Ordinance question is developed in the course of Tribal business during the General Membership Meeting.
  - i. At least 1 Tribal Police Officer shall be present throughout the voting, counting, and tally processes. An Officer(s) shall remain until the count and tally of the ballots is completed, certified, and announced.

- ii. The Election Board shall issue ballots only if the Election Board certifies that at least 30% of Tribal member registered voters are in attendance at the Membership Meeting, and a Motion and/or Ordinance question is brought to a vote at the meeting.
- iii. The Election Board shall arrange to have 2 portable voting booths brought into the meeting room and shall establish them as polls.
- iv. The Board shall have a ballot box brought into the meeting room and placed in as close proximity to the 2 polls as possible.
  - (1) With the assistance of a Tribal Police Officer, an Election Board member shall open the ballot box and confirm, before the membership present, that the ballot box is empty before the start of voting.
  - (2) The ballot box thereafter shall be locked.
- v. The Election Board shall have available for viewing the final language of the Motion and/or Ordinance question near the established polls/voting booths.
- vi. Only one Motion or Ordinance question shall be brought to a vote at a time.
  - (1) Each Motion or Ordinance question shall require a separate vote.
  - (2) The purpose for limiting actions to a single question at one time is to avoid confusion among the membership as to what issue is before the membership for consideration.
- vii. Prepared ballots with YES/NO and check boxes for voting shall be brought in to the meeting room.
- viii. An Election Board member shall hand-number each ballot to be issued.
- ix. According to our traditional ways, Tribal elders and Tribal handicapped voters shall be given priority to vote first.
- x. An Election Board member shall issue ballots to verified registered voters upon swiping their Tribal Identification Card.

(1) The Board member issuing the ballots shall verify that the voter is confirmed to be present on the voter attendance report for the Membership Meeting. The Election Board member then shall issue a ballot to the voter.

xi. Election Board members may help voters in entering or exiting the voting booths or in placing finished ballots in the ballot box.

b. Ballots and Voting.

i. The ballot shall read YES or NO with associated check boxes next to each answer.

Example: YES  NO

ii. To vote, the voter must fill in the box, or place an "X" or "✓" mark in the box immediately to the right of the voter's choice.

(1) The following examples of improper voting will cause a ballot to be rejected by the Election Board for noncompliance. The examples listed are not intended to be exclusive.

(a) A vote that circles a checkbox, rather than has one of the specified marks placed in the checkbox;

(b) Any marks inside the checkbox other than an "x" or a "✓";

(c) Double voting - more than 1 checkbox marked.

iii. Each registered voter present shall be entitled to cast one vote for each Motion and/or Ordinance question put to a vote. Any registered voter who was removed from the meeting but chose to remain on the property in the designated area will be given the opportunity to vote on each Motion and/or Ordinance question from that area, using procedures the Election board determines suitable based on the circumstances at that time.

iv. A voter may request a replacement or new ballot by returning a spoiled ballot to an Election Board member.

(1) Spoiled ballots shall be placed in a separate envelope marked "Spoiled."

- (2) The Board shall mark a new ballot as "Replacement," number the ballot with the next available number from the ballot numbering series, and shall present the ballot to the voter.
  - v. After a voter has marked their ballot, the voter shall place the ballot in the ballot box.
  - vi. When the voting is completed, the Election Board shall announce the close of the voting process and shall proceed to count and tally the votes.
- c. Counting and tallying the votes. The Election Board shall move the ballot box and provide an appropriate media in the meeting room to permit public viewing of the ballot and vote count.
  - i. The media for viewing shall be used to post each vote, with separate columns for noting YES and NO votes, and SPOILED and REJECTED ballots.
    - (1) The media for viewing shall be placed in a location where the membership in attendance shall have the best opportunity to witness each vote as it is placed in the appropriate column.
  - ii. An Election Board member shall unlock the ballot box, and remove and assemble the ballots.
  - iii. Holding each ballot in view of the voters, an Election Board member shall call out the vote on the ballot.
  - iv. Each spoiled ballot shall be announced to the membership and an entry made into the SPOILED BALLOT column on appropriate media device.
  - v. Any ballot that is removed from the ballot box, and that has more than 1 checkbox marked, or any other defect, as confirmed by a majority vote of the Election Board members present, shall be deemed a rejected ballot.
    - (1) Any ballot deemed rejected shall be announced to membership as a rejected ballot, with an explanation as to the reasons for the rejection, and a notation entered under



the REJECTED BALLOT column on an appropriate media device tally.

- (2) The Election Board shall not maintain a tally of rejected ballots.
  - (3) Rejected ballots shall be placed in a separate envelope marked "Rejected."
- vi. An Election Board member shall enter the vote count onto the media device in the appropriate column.
  - vii. When the counting of the votes is completed, 2 Election Board members independently shall tally the votes, as entered on the media device, in view of the membership in attendance.
    - (1) The tally of the 2 Board members must agree.
    - (2) If the tally does not agree, the Board members shall recount the votes until there is agreement on the tally.
  - viii. An Election Board member may collect and organize already-counted ballots.

## **Section 5. Certification of Results.**

- a. Completed tally. When the tally is completed, the Election Board shall take a vote to confirm the final tally of the vote.
  - i. The Election Board members who are present shall sign the media certifying the election count and tally.
  - ii. A Board member shall make an 8-1/2 x 11" paper count and tally sheet directly from the media device, and shall certify that the paper tally is a true and correct copy of the media count and tally.
- b. Written certification. Within 5 calendar days of the General Membership Meeting, the Election Board shall provide to the Tribal Ogema and to the Tribal Council Speaker a written certification of the final vote tally on each Motion and/or Ordinance.
- c. Contents of certification. The Board's certification shall contain the following:

- i. The total number of registered voters for the Tribe;
- ii. The total number of registered voters required for 30%;
- iii. The total number registered voters attending the Membership Meeting;
- iv. The total number of registered voters casting ballots for the motion or ordinance question;
- v. The wording of the motion and/or ordinance as voted on;
- vi. The total number YES votes;
- vii. The total number NO votes;
- viii. The vote of the Election Board;
- ix. The signatures of Election Board members in attendance.

**Section 6. Security and Destruction of Membership Meeting Election Materials.**

- a. Process completion. Upon completion of the ballot tabulation and count process, the Board shall seal all ballots, verification receipts, papers, and tally sheets in a Ballot Box, and the Ballot Box shall be locked in a fireproof safe, or in the Tribal Police Evidence Locker.
  - I. The sealed Ballot Box shall be opened only in the presence of a quorum of the Election Board.
  - ii. The ballots and envelopes shall be destroyed after 60 calendar days, providing no challenges exist for this Membership Meeting, or after the Board certifies the Final Report of election results, whichever is longer, and only upon Resolution by the Election Board.

## **CHAPTER 9. RECALLS**

**Section 1. Scope.** This Chapter provides the procedures for conducting recall petition drives and for holding recall elections. By these rules, the Election Board is regulating the process for recalls, which are set by the Tribal Constitution. The Election Board does not and will not make decisions about whether the grounds for recall asserted in a petition, or the defense by the Elected Official, are true or false, or whether those statements have merit or not.

### **Section 2. Request for Recall Petition.**

- a. Request for Recall Petition. An enrolled Tribal member at least 18 years of age may initiate a recall drive by filling out and submitting a written request for a recall petition. The request shall be on a form provided by the Election Board. The request shall:
  - i. Be legible or typewritten
  - ii. State the reasons for recall clearly and in not more than 200 words.
  - iii. Identify the principal sponsor(s) of the request; and
  - iv. Contain the signature of the principal sponsor(s) swearing or affirming that the charge or charges to be true to the best of their knowledge.

### **Section 3. Clarity Determination.**

- a. Initial Public Hearing. Within 21 calendar days after submission of a request for recall Petition to the Election Board, the Board shall hold a hearing to receive comments from the principal sponsor(s) and from the elected official who is the subject of the recall attempt, on the clarity of the reasons submitted in the request. The Election Board will send a Registered Certified Letter to the principal sponsor and the elected official stating the date of the public hearing, time of the public hearing, and where the public hearing will be held.
- b. Clarity Determination. At the hearing, or within 21 calendar days after the hearing, the Election Board, with the advice of its Attorney if necessary, shall decide whether the request for recall petitions is clear enough to allow the registered Tribal voters and the elected official whose recall is sought to understand the charges and to allow the elected official to

defend himself or herself against them. Any unclear reasons in a request for recall petition shall void the request even if other reasons are determined to be clear.

#### **Section 4. Action on Request for Recall Petitions.**

- a. Denial of Request for Recall Petitions. If the reasons contained in the request for recall petition are determined, not to be clear enough to meet the standard set forth above, the Election Board shall deny the request for recall petition by motion at the Board's next meeting. A Registered Certified letter with a copy of the minutes of the meeting where the recall petition was denied will be sent to the sponsor and the Elected Official. The denial of the request shall not prevent a Tribal member from re-submitting a request for recall petition with the reasons revised.
- b. Granting of Request for Recall Petitions. If the Election Board determines that the reasons in the Request for Recall Petitions are clear enough to meet the standard set forth above, the Election Board shall approve the request by motion at the Board's next meeting. A Registered Certified letter with a copy of the minutes of the meeting where the recall petition was denied will be sent to the sponsor and the Elected Official.
- c. Defense to Charges. Within 7 calendar days after being notified, the Elected Official may submit a legible, written statement of his or her defense to the charges of not more than 200 words.
- d. Preparation of recall petitions. The Election Board will prepare the recall petitions within 21 calendar days of when it notifies the principal sponsor(s) and elected official(s) that the request for recall petitions has been granted. The recall petitions shall contain both the statement of reasons for recall and the defense to the charges.

#### **Section 5. Recall Petition Form.**

- a. Contents of petition form. The recall petition forms prepared by the Election Board shall include:
  - i. The name of the elected official and his or her elected office;
  - ii. The statement of reasons for the recall from the request for recall petition (this may be on the back of the form);

- iii. The elected official's defense to the charges, if he or she submitted one by the deadline (this may be on the back of the form);
  - iv. A place for the name, Tribal enrollment number, mailing address, and telephone number of the principal sponsor(s);
  - v. A place for the name, Tribal enrollment number, mailing address, and telephone number of the circulator of each petition page;
  - vi. A statement to be signed by the circulator of each petition certifying that the signatures on the petition were collected in compliance with these rules;
  - vii. A place for the printed name, signature, Tribal enrollment number, mailing address, and signature date of each Tribal member who signs the petition.
- b. One elected official per petition. A recall petition shall address the recall of only one elected official. A separate recall petition shall be required for each elected official who is the subject of a recall attempt.

## **Section 6. Recall Petition Process.**

- a. Notification of principal sponsor. The Election Board will notify by Registered Certified mail the principal sponsor(s) when a petition has been prepared and is available for pick-up. The Principal Sponsor is the person who is initiating the recall petition. There may be one or two principal sponsors.
- b. Deadline for recall. The principal sponsor(s) of the recall petition shall have 140 calendar days from the date the Election Board notifies him or her that the petitions have been prepared to file completed recall petitions with the Election Board.
- c. Extension. A principal sponsor may request a 28-calendar-day extension of the deadline for filing completed recall petitions. An extension is requested by delivering a written request to the Election Board prior to the expiration of the 140-calendar-day deadline. A request that is delivered to the Election Board on time will be granted; otherwise, it will be denied. No further extensions will be granted under any circumstances.

- d. List of registered voters. The Election Board will request a list from the Enrollment Department of current registered Tribal voters. On receiving the list, the Election Board shall determine the number of verified recall petition signatures required to proceed with a recall election. The Enrollment Department shall provide the principal sponsor with a copy of the list and the total number of required signatures (25%) if the principal sponsor requests it.
- e. Duties of principal sponsor. The principal sponsor(s) shall be responsible to oversee the proper circulation and the collection of signatures on the petitions, and to submit the completed petitions to the Election Board.
- f. Authorizing circulators. The principal sponsor(s) shall submit a list of petition circulators to the Election Board before collecting any signatures. The Election Board will notify the principal sponsor(s) which of the circulators is an enrolled Tribal member at least 18 years of age. The principal sponsor(s) may submit a list of the names of additional circulators to the Election Board for authorization once while signatures are being collected. To be considered for approval, the list of additional names must be submitted no later than 30 calendar days after the Election Board approves the initial list of circulators. Any additional circulator must wait for the Election Board to confirm with the Enrollment Department that he or she is a duly enrolled Tribal member at least 18 years of age before that circulator may begin collecting signatures.
- g. A circulator may circulate more than one recall petition page. However, there shall only be one circulator for each recall petition page.
- h. Recall petition pages. Signatures may only be collected on the petition forms prepared by the Election Board. A principal sponsor may make copies of the blank forms if needed.
- i. Rules for signing petitions.
  - i. A Registered Tribal voter may sign a petition to recall a particular elected official only once during that particular recall attempt.
  - ii. A Registered Tribal voter who signs a recall petition must fill out all the information requested on that portion of the petition form.
  - iii. A Registered Tribal voter who cannot sign his or her own name to the petition for any reason may have his or her named signed by a person with a legal power of attorney or equivalent authorization, a copy of which must be attached.

- iv. Any Registered Tribal voter who signs a petition must do so in the presence of the circulator.
- v. No signature may be obtained through fraud, deceit, or misrepresentation;
- vi. A circulator may sign a recall petition if he or she is a registered voter.
- vii. Certification. The circulator shall sign and date the certification statement on each recall petition page only after all signatures appearing on that petition page have been obtained.
- j. Public information. All information on a recall petition shall be public and shall be available to any and all members of the Tribe. Each person signing a recall petition agrees to this information being public.
- k. Informed signing. Each registered Tribal voter signing a recall petition is considered to know the purpose and reasons for the petition. No Tribal member may withdraw his or her signature from a petition after it is signed.
- l. Subsequent proceedings. The recall petition, or copies thereof, are not valid for any subsequent proceeding.

## **Section 7. Filing Completed Petition.**

- a. Filing. A Principal Sponsor shall present the completed recall petitions to an Election Board member in person. The Principal Sponsor shall fill out and sign a statement on a form provided by the Election Board giving the number of signatures collected on the petitions, and certifying that the signatures were collected in compliance with these rules.
- b. Receipt. The Election Board member will provide the Principal Sponsor with a copy of the petitions. The Election Board member will note on the top of the petitions the date and time they were delivered; and the number of petition pages delivered. The copy of the petitions with these notations will serve as the principal sponsor's receipt.
- c. No additions or amendments. After completed recall petitions are delivered to the Election Board for a particular elected official, no additional signatures or petition pages may be submitted for the recall

attempt on that elected official. No other amendments or changes may be made to the petitions, either.

## **Section 8. Review of Signatures.**

- a. Notice of meeting to review petitions. The Election Board shall notify the principal sponsor(s) of the recall petitions and the elected official(s) who are the subject of the recall attempt of the time and place of the meeting where Election Board will review the petitions. The notice shall be sent no later than 14 calendar days before the meeting is to be held. Any elected official who is the subject of a recall attempt may request a copy of the petition pages that were submitted to the Election Board to recall that elected official.
- b. Elected official challenge. The elected official who is the subject of the recall petitions may challenge the validity of any petition page or signatures on a recall petition. Any such challenge shall be in writing, specifying the reasons for the challenge, and shall be delivered to the Election Board no fewer than 5 calendar days before the meeting to review the petitions. The reasons why pages or signatures may be challenged are limited to those below.
- c. Review of petitions. Only properly-completed signatures of Registered Tribal voters on properly-certified petition pages shall be counted toward the number of signatures necessary to set a recall election.
- d. Invalidation of petition page. A recall petition page shall be invalid where:
  - i. The page is not from the form prepared by the Election Board;
  - ii. The form prepared by the Election Board has been altered in any material way;
  - iii. The circulator of the petition page was not an enrolled Tribal member at least 18 years of age;
  - iv. The circulator statement is not signed, completed, and dated, or the date appears to have been materially altered after signing;
  - v. Any other irregularity on a petition page that calls into question its truthfulness or accuracy.



- e. Invalidation of petition signatures. A signature on a petition page shall be invalid where:
  - i. There is no printed name with the signature;
  - ii. There is no Tribal ID number with the signature;
  - iii. There is no Physical address with the signature;
  - iv. The Physical address entered does not match the Physical address on file with the Enrollment Department;
  - v. There is no date with the signature, or the date is illegible or has been materially altered;
  - vi. The person signing the petition is not a registered voter of the Tribe;
  - vii. The date with the signature is later than the date on the circulator statement;
  - viii. The signature is by another person on behalf of the Tribal member, and there is no power of attorney or equivalent authorization attached;
  - ix. Any other irregularity that calls into question the truthfulness or accuracy of the signature and related information.
- i. In the event a Tribal member's signature appears on a petition more than once, all but one of the multiple signatures shall be stricken as invalid.
- j. A signature shall not qualify for the residence requirement, where the address is not in the required voting district.
- k. Individual signatures that are found to be invalid appearing on an otherwise valid petition page shall not invalidate any other valid signature found on the same valid petition page.
- l. If a petition page is found to be invalid, then none of the signatures on that page shall be counted towards meeting the total number of signatures required.

- m. The Election Board shall note the petition page, where the signature appears, or on a separate sheet, the invalidation of each signature on a recall petition.
- n. Motions. The Election Board shall invalidate petition signatures or petition pages only upon proper motion of the Board, which motion shall contain a notation of the reason for invalidation. Any decision to accept a signature or petition page questionable for any reason shall be made by proper motion of the Election Board.
- o. Final decision. The approved minutes of the meeting where the Election Board reviewed the petitions shall be considered the final decision of the Election Board on the validity of the petitions.
- p. Allegations of fraud. Credible allegations of fraud related to the recall process shall be referred to the office of the Tribal Prosecutor.

#### **Section 9. Sufficiency of Petition.**

- a. Valid petition. If the petitions are determined by motion of the Election Board to be valid, the Board shall set a recall election within 90 calendar days of the approval.
- b. Invalid petition. If the petitions are determined by motion of the Election Board to be invalid, the recall attempt will be concluded. A petition declared invalid by the Election Board shall not be used in any later recall attempt.

#### **Section 10. Recall Election.**

- a. Recall Election Process. The Election Board shall conduct a recall election using the same procedures for ballot mailing, voting and vote counting that are used for conducting regular and special elections.
- b. Timing of Election. The Election Board shall determine the time periods for the recall election within 21 days of determining the recall petitions are sufficient.
- c. Ballot language.
  - i. The reasons for recall, and the defense to the charges, shall be printed on each ballot.

- ii. No part of the reasons for recall or the defense to the charges shall be emphasized by bold print, italics, underscoring, or other means of emphasis.
- iii. The sole question for vote on the recall election ballot shall read as follows:

"Shall (name of elected official) be recalled from the office of (title of the office)?"

Printed below the question on separate lines, and in easily readable type, shall be the words: "Yes" or "No"

**Section 11. Recall Election Disputes, Recounts and Challenges.** Recall election disputes, recounts and challenges shall be handled under Chapters 6 and 7 of these regulations.

**Section 12. Results.**

- a. Tentative Results and Final Report. The Election Board shall announce tentative results and issue a final report for recall elections in the same way as for general and special elections.
- b. Vacancies. An elected office shall be deemed vacant upon the issuing of a final report determining that the majority of the votes were cast in favor of recall. The vacancy shall then be filled as specified by the Tribal Constitution.

**Section 13. Hearing Officer.** The Election Board may utilize a Hearing Officer to assist with any factual or legal determinations the Election Board is required to make

## CHAPTER 10. INITIATIVES

**Section 1. Scope.** This Chapter provides the procedures for conducting initiative petition drives and for holding initiative elections.

### **Section 2. Request for Initiative Petition.**

- a. Request for Initiative Petition. A registered Tribal voter may start an initiative process by filling out and submitting a written request for an initiative petition. The request shall be on a form provided by the Election Board. The request shall:
  - i. Be legible or typewritten;
  - ii. Attach a copy of the proposed ordinance sought to be enacted, or the existing ordinance sought to be repealed, through the initiative process; and
  - iii. Identify the principal sponsor(s) of the request.

### **Section 3. Preparation of Initiative Petition.**

- a. The Election Board will prepare initiative petitions within 21 calendar days of receiving a sufficient written request.
- b. Contents of petition form. The initiative petition forms prepared by the Election Board will include:
  - i. The question. The phrasing of the question on the petition will be determined by the Election Board. Generally, and without restricting the discretion of the Election Board, the question will be phrased as:

“Shall the [Title of proposed ordinance] be enacted?”

or

“Shall the [Title of existing ordinance], also known as Ordinance # [Number of existing ordinance], be repealed?”

- ii. A copy of the ordinance which is proposed to be enacted or repealed will be printed on the back of the petition forms if possible, or if not possible, will be attached to the petition forms.
  - iii. A place for the printed name, signature, Tribal enrollment number, and signature date of each Tribal member who signs the petition.
  - iv. A place for the name, Tribal enrollment number, physical address, and telephone number of the principal sponsor(s);
  - v. A place for the name, Tribal enrollment number, physical address, and telephone number of the circulator of each petition page;
  - vi. A statement to be signed by the circulator of each petition certifying that the signatures on the petition were collected in compliance with these rules;
- c. One ordinance per petition. There will be one petition form prepared for each ordinance that is proposed to be enacted or repealed.

#### **Section 4. Initiative Petition Process.**

- a. Notification of principal sponsor. The Election Board will notify the principal sponsor(s) when a petition has been prepared and is available for pick-up.
- b. Deadline for initiative petitions. The principal sponsor(s) of the initiative petition shall have 140 calendar days from the date the Election Board notifies him or her that the petitions have been prepared to file completed petitions with the Election Board.
- c. Extension. A principal sponsor may request a 28-calendar-day extension of the deadline for filing completed initiative petitions. An extension is requested by delivering a written request to the Election Board prior to the expiration of the 140-calendar-day deadline. A request that is delivered to the Election Board on time will be granted; otherwise, it will be denied. No further extensions will be granted under any circumstances.
- d. List of registered voters. The Election Board will request a list from the Enrollment Department of current registered Tribal voters. On receiving the list, the Election Board shall determine the number of verified petition signatures required for the petition to be presented to the Tribal Council.

The Election Board shall provide the principal sponsor with a copy of the list and the total number of required signatures if the principal sponsor requests it.

- e. Duties of principal sponsor. The principal sponsor(s) shall be responsible to oversee the proper circulation and the collection of signatures on the petitions, and to submit the completed petitions to the Election Board.
- f. Authorizing circulators. The principal sponsor(s) shall submit a list of petition circulators to the Election Board before collecting any signatures. The Election Board will notify the principal sponsor(s) which of the circulators is a duly enrolled Tribal member at least 18 years of age. The principal sponsor(s) may submit a list of the names of additional circulators to the Election Board for authorization once while signatures are being collected. To be considered for approval, the list of additional names must be submitted no later than 30 calendar days after the Election Board approves the initial list of circulators. Any additional circulator must wait for the Election Board to confirm that he or she is an enrolled Tribal member at least 18 years of age before that circulator may begin collecting signatures.
- g. A circulator may circulate more than one petition page. However, there shall only be one circulator for each petition page.
- h. Initiative petition pages. Signatures may only be collected on the petition forms prepared by the Election Board. A principal sponsor may make copies of the blank forms if needed.
- i. Rules for signing petitions.
  - i. A registered Tribal voter may sign an initiative petition for a particular ordinance only once during that particular initiative drive.
  - ii. A registered Tribal voter who signs a petition must fill out all the information requested on that portion of the petition form.
  - iii. A registered Tribal voter who cannot sign his or her own name to the petition for any reason may have his or her named signed by a person with a legal power of attorney or equivalent authorization. A copy of which must be attached.
  - iv. Any registered Tribal voter who signs a petition must do so in the presence of the circulator.

- v. No signature may be obtained through fraud, deceit, or misrepresentation.
- vi. A circulator may sign a petition if he or she is a registered Tribal voter.
- vii. Certification. The circulator shall sign and date the certification statement on each petition page only after all signatures appearing on that petition page have been obtained.
- j. Public information. All information on a petition shall be public and shall be available to any and all members of the Tribe. Each person signing a petition agrees to this information being public.
- k. Informed signing. Each registered Tribal voter signing a petition is considered to know the purpose and reasons for the petition. No Tribal member may withdraw his or her signature from a petition after it is signed.
- l. Subsequent proceedings. The petition or copies thereof, are not valid for any subsequent proceeding.

### **Section 5. Filing Completed Petition.**

- a. Filing. A Principal Sponsor shall present the completed petitions to an Election Board representative in person. The Principal Sponsor shall fill out and sign a statement on a form provided by the Election Board giving the number of signatures collected on the petitions, and certifying that the signatures were collected in compliance with these rules.
- b. Receipt. The Election Board representative will provide the Principal Sponsor with a copy of the petitions. The Election Board representative will note on the top of the petitions the date and time they were delivered; and the number of petition pages delivered. The copy of the petitions with these notations will serve as the principal sponsor's receipt.
- c. No additions or amendments. After completed petitions are delivered to the Election Board for a particular initiative drive, no additional signatures or petition pages may be submitted for that initiative drive. No other amendments or changes may be made to the petitions, either.

## **Section 6. Review of Signatures.**

- a. Notice of meeting to review petitions. The Election Board shall notify the principal sponsor(s) of the petitions of the time and place of the meeting where Election Board will review the petitions. The notice shall be sent no later than 14 calendar days before the meeting is to be held.
- b. Review of petitions. Only properly-completed signatures of registered Tribal voters on properly-certified petition pages shall be counted toward the number of signatures necessary to set an initiative election.
- c. Invalidation of petition page. A petition page shall be invalid where:
  - i. The page is not from the form prepared by the Election Board;
  - ii. The form prepared by the Election Board has been altered in any material way;
  - iii. The circulator of the petition page was not a duly enrolled Tribal member at least 18 years of age;
  - iv. The circulator statement is not signed, completed, and dated, or the date appears to have been materially altered after signing;
  - v. Any other irregularity on a petition page that calls into question its truthfulness or accuracy.
- d. Invalidation of petition signatures. A signature on a petition page shall be invalid where:
  - i. There is no printed name with the signature;
  - ii. There is no Tribal ID number with the signature;
  - iii. There is no date with the signature, or the date is illegible or has been materially altered;
  - iv. The person signing the petition is not a registered voter of the Tribe;
  - v. The date with the signature is later than the date on the circulator statement;



- vi. The signature is by another person on behalf of the Tribal member, and there is no power of attorney or equivalent authorization attached;
  - vii. Any other irregularity that calls into question the truthfulness or accuracy of the signature and related information.
- e. In the event a Tribal member's signature appears on a petition more than once, all but one of the multiple signatures shall be stricken as invalid.
  - f. Individual signatures that are found to be invalid appearing on an otherwise valid petition page shall not invalidate any other valid signature found on the same valid petition page.
  - g. If a petition page is found to be invalid, then none of the signatures on that page shall be counted towards meeting the total number of signatures required.
  - h. The Election Board shall note on the petition page, where the signature appears, or on a separate sheet, the invalidation of each signature on a petition.
  - i. Motions. The Election Board shall invalidate petition signatures or petition pages only upon proper motion of the Board, which motion shall contain a notation of the reason for invalidation. Any decision to accept a signature or petition page questionable for any reason shall be made by proper motion of the Election Board.
  - j. Final decision. The approved minutes of the meeting where the Election Board reviewed the petitions shall be considered the final decision of the Election Board on the validity of the petitions.
  - k. Allegations of fraud. Credible allegations of fraud related to the petition circulating and signing processes shall be referred to the office of the Tribal Prosecutor.

## **Section 7. Sufficiency of Petition.**

- a. Valid petition. To be valid, a petition must be signed by 25% of the registered voters of the Tribe, as verified by the Election Board. If the petitions are determined by motion of the Election Board to be valid, the Board shall present them to the Tribal Council for action under Article VII, Section 2 of the Tribal Constitution.

- b. Invalid petition. If the petitions are determined by motion of the Election Board to be invalid, the initiative drive will be concluded. A petition declared invalid by the Election Board shall not be used in any later initiative drive. However, nothing shall prevent the principal sponsor(s) of the initiative drive from attempting another drive on the same ordinance.

**Section 8. Initiative Election.**

- a. Conducting initiative election. If the Tribal Council does not adopt the measure after presentation as specified in the Constitution, the Election Board will announce a special election.
- b. Initiative election process. The Election Board shall conduct an initiative election using the same procedures for ballot mailing, voting and vote counting that are used for conducting regular and special elections.
- c. Timing of election. The Election Board shall determine the time periods for the initiative election within 21 calendar days of determining the petitions are sufficient, subject to the 90-calendar-day time limit in the Tribal Constitution.
- d. Ballot. The question on the ballot shall be phrased as it was on the petition. A copy of the ordinance that is proposed to be enacted or repealed will be printed on or included with mail ballots and available for review at any polling place, if applicable.

**Section 9. Initiative Election Disputes, Recounts and Challenges.**  
Initiative election disputes, recounts and challenges shall be handled under Chapters 6 and 7 of these regulations.

## **Section 10. Results.**

- a. Determination of voter turn-out. On Election Day, the Election Board will use a list of registered voters provided by the Enrollment Department and the normal ballot-counting process to determine whether 30% of the registered Tribal voters cast ballots. If fewer than 30% of the registered Tribal voters cast ballots, the initiative(s) will be deemed defeated under the Constitution. If less than 30% of the registered Tribal voters cast ballots, the Election Board may, at its discretion, post the results of the count for informational purposes only.
- b. Announcement of results. The Election Board will announce tentative results and issue a final report for initiative elections in the same way as for general and special elections.

**Section 11. Hearing Officer.** The Election Board may utilize a Hearing Officer to assist with any factual or legal determinations the Election Board is required to make under this chapter.

## **CHAPTER 11. REFERENDUMS**

**Section 1. Scope.** This Chapter provides the procedures for conducting referendum elections.

### **Section 2. Referendum Election.**

- a. Conducting referendum election. If the Tribal Council votes to submit a question to the Tribal membership for referendum election as specified in the Constitution, the Election Board will announce a special election.
- b. Referendum election process. The Election Board shall conduct a referendum election using the same procedures for ballot mailing, voting and vote counting that are used for conducting regular and special elections.
- c. Timing of election. The Election Board shall determine the time periods for the referendum election within 21 calendar days of the Tribal Council's vote to submit a question for referendum, subject to the 90-calendar-day time limit in the Tribal Constitution.
- d. Ballot. The question on the ballot shall be phrased as it was by the Tribal Council in its vote to hold a referendum election, if possible. If not possible, the Election Board will phrase the question for the ballot.

**Section 3. Referendum Election Disputes, Recounts and Challenges.** Referendum election disputes, recounts and challenges shall be handled under Chapters 6 and 7 of these regulations.

### **Section 4. Results.**

- a. Determination of voter turn-out. On Election Day, the Election Board will use a list of registered voters provided by the Enrollment Department and the normal ballot-counting process to determine whether 30% of the registered Tribal voters cast ballots.
- b. Announcement of results. The Election Board will announce tentative results and issue a final report for initiative elections in the same way as for general and special elections. The final report will include a statement as to whether 30% of the registered Tribal voters cast ballots.

**Section 5. Hearing Officer.** The Election Board may utilize a Hearing Officer to assist with any factual or legal determinations the Election Board is required to make under this chapter.

## **CHAPTER 12. ETHICAL STANDARDS**

**Section 1. Scope.** This chapter sets out the standards of ethical conduct for members of the Election Board. These standards shall be the definitive rules for the conduct of Election Board members for all purposes, and shall supersede any contrary rules or standards.

### **Section 2. Ethical Standards.**

- a. General duty. Members of the Election Board shall uphold the integrity, fairness and independence of the Election Board and the election process, as well as the civil rights of Tribal members, in the performance of their duties.
- b. Acts prohibited. Members of the Election Board shall not engage in the following activities:
  - i. An Election Board member who runs for an elected office besides the Election Board must resign from his or her position upon filing a Declaration of Candidacy. However, a member of the Election Board may run for re-election to the Election Board without resigning from that position.
  - ii. Campaigning, or announcing personal views about, any candidate for elected office, any recall petition drive or election, any petition to amend the Tribal Constitution, or any initiative or referendum question, or signing any petitions for the above. However, a member of the Election Board, who is a candidate for re-election may campaign for the Office of the Election Board.
  - iii. Accepting gifts or favors of a non-familial or personal friendship nature from a candidate for elected office or a principal sponsor or target of a petition drive.
  - iv. Soliciting funds for any candidate except for him or herself when running for re-election, or contributing funds to any candidate for elected office, any recall petition drive or election, or any initiative or referendum question.
  - v. Deliberating or voting on any Election Board action, issue or decision which could have a beneficial or detrimental impact on a member of the Election Board, a member of the Election Board's

immediate family who is a candidate for elected office, or a principal sponsor or target of a petition drive. When a member of the Election Board is running for re-election, only that member shall be excluded from participation in those Election Board functions which affects qualification for, or election to, the Office of the Election Board.

### **Section 3. Allegations of impropriety.**

- a. Filing of allegations. All allegations of impropriety by Election Board members shall be filed in writing with the Tribal Court. Any such allegations must specify:
  - i. The Election Board member(s) alleged to have engaged in impropriety;
  - ii. The specific act(s) alleged to constitute impropriety;
  - iii. The date(s) on which the act(s) occurred, if known;
  - iv. The identity of witnesses and/or other participants in the act(s) complained of;
  - v. A description of the impact that the act(s) are alleged to have had on the election process; and
  - vi. The remedy sought.
- b. Service on Election Board. A copy of any filing alleging impropriety must be sent to the Chairperson of the Election Board and the Election Board member(s) named in the filing.
- c. Hearing by Tribal Court. The Tribal Court shall hear any allegations of impropriety using the procedures it determines to be appropriate.

### **Section 4. Removal from Office.**

- a. Each of the following reasons shall be deemed a sufficient breach of ethical standards to result in removal from office:
  - (1) Gross misconduct or malfeasance in office.

- (2) Conviction, while in office, of a felony under Federal, Tribal, or State law, or conviction of any other crime involving dishonesty or moral turpitude.
  - (3) Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he/she is incapable of exercising judgment about or attending to the business of his/her office.
- b. A unanimous vote of the Election Board, excluding the affected Board member, shall be required to initiate an action for removal.
- c. The affected Election Board member shall have at least ten (10) calendar days to respond to the action for removal and may request a hearing before a Hearing Officer, as provided by Chapter 7.
- d. After an opportunity for hearing, the Election Board shall make a final decision regarding removal. If the Board determines that there has been a breach of ethical standards warranting removal, it shall forthwith institute a legal proceeding for removal of the Election Board member in Tribal Court. The Tribal Court Petition for Removal shall state in detail allegations of impropriety as specified in Section 3(a) and breach of ethical standards specified in Section 4(a).



## **CHAPTER 13. PETITIONS FOR CONSTITUTIONAL AMENDMENTS**

### **Section 1. Scope.**

- a. Outline of Scope. This Chapter provides the procedures for petition drives for the calling of elections by the Secretary of Interior ("Secretary"), Bureau of Indian Affairs (BIA), on proposed amendments to the Tribal Constitution.
- b. Authority. It is the intent of this Chapter to meet the Election Board's duties under Article IX, Section 4(e) and Article XIV of the Constitution. Secretarial elections are governed by BIA rules found at 25 CFR Part 81 and are conducted by the BIA with the Election Board acting in assistance to that agency.
- c. Timing of Application. If this Chapter is enacted or amended while a petition drive or other aspect of the process described below is in progress, this Chapter will be applied prospectively to those steps of the process which have not occurred at the time of enactment.

### **Section 2. Request for Constitutional Amendment Petition.**

- a. Request for Petition. An eligible Tribal voter may start a petition process by filling out and submitting a written request for an amendment petition. The request shall be on a form provided by the Election Board. The request shall:
  - i. Be legible or typewritten;
  - ii. Attach a copy of the proposed amendment, including text to be added, if applicable, and text to be deleted, if applicable, specified by Article and Section number; and
  - iii. Identify the principal sponsor(s) of the request.

### **Section 3. Preparation of Amendment Petition.**

- a. The Election Board will prepare amendment petitions within 21 calendar days of receiving a sufficient written request.
- b. Contents of petition form. In order to ensure that the petitions are consistent with ballot requirements published by the Bureau of Indian

Affairs, the initiative petition forms prepared by the Election Board will include:

- i. The proposed amendment. The phrasing of the proposed amendment on the petition will be determined by the Election Board. This determination will be at an open meeting of the Election Board, and the Principal Sponsor(s) will be notified of when the matter will be considered, and invited to participate.
- ii. Generally, and without restricting the discretion of the Election Board, the question will be phrased as:

"Shall the amendment to Article \_\_, Section \_\_,  
titled \_\_\_\_\_, be enacted?"
- iii. More than one Article, Section, and title may be identified if more than one is to be amended as part of a single question.
- iv. Each proposed amendment may address only a single question.
- v. If a proposed amendment conflicts with other provisions of the Tribal Constitution, the petition shall be prepared so that the question includes all changes in those other, directly-related provisions in order to avoid contradictions within the Constitution.
- vi. A copy of the amendment will be printed on the back of the petition forms if possible, or if not possible, will be attached to the petition forms. The copy of the amendment will include text to be added, if applicable; text to be deleted, if applicable; and enough of the unamended text so that the signer can understand the drift of the amendment.
- vii. A place for the printed name, signature, Tribal enrollment number, and signature date of each Tribal member who signs the petition.
- viii. A place for the name, Tribal enrollment number, physical address, and telephone number of the principal sponsor(s);
- ix. A place for the name, Tribal enrollment number, physical address, and telephone number of the circulator of each petition page; and
- x. A statement to be signed by the circulator of each petition with a notary block certifying that the signatures on the petition were affixed on the dates shown and by the individuals whose names

appear there, that to the best of the circulator's knowledge the signatories are eligible voters, and that the signatures were collected in compliance with these rules.

- c. One amendment per petition. There will be one petition form prepared for each proposed amendment dealing with a single question.
- d. Decision on petition language. The Election Board shall notify the principal sponsor(s) of the petitions of the time and place of the meeting where Election Board will make decisions related to the form and content of the petitions.

#### **Section 4. Amendment Petition Process.**

- a. Notification of principal sponsor. The Election Board will notify the principal sponsor(s) when a petition has been prepared and is available for pick-up.
- b. Deadline for initiative petitions. The principal sponsor(s) of the petition shall have 140 calendar days from the date the Election Board notifies him or her that the petitions have been prepared to file completed petitions with the Election Board.
- c. Extension. A principal sponsor may request a 28-calendar-day extension of the deadline for filing completed petitions. An extension is requested by delivering a written request to the Election Board prior to the expiration of the 140-calendar-day deadline. A request that is delivered to the Election Board on time will be granted; otherwise, it will be denied. No further extensions will be granted under any circumstances.
- d. List of eligible voters. The Election Board will request a list from the Enrollment Department of current eligible Tribal voters. On receiving the list, the Election Board shall determine the number of verified petition signatures that comprises 30% of eligible Tribal voters as required for the petition to be presented to the Tribal Council. The Election Board shall provide the principal sponsor with a copy of the list and the total number of required signatures if the principal sponsor requests it.
- e. Duties of principal sponsor. The principal sponsor(s) shall be responsible to oversee the proper circulation and the collection of signatures on the petitions, and to submit the completed petitions to the Election Board.

- f. Authorizing circulators. The principal sponsor(s) shall submit a list of petition circulators to the Election Board before collecting any signatures. The Election Board will notify the principal sponsor(s) which of the circulators is an eligible voter who may circulate petitions and which of the circulators, if any, is not. The principal sponsor(s) may submit a list of the names of additional circulators to the Election Board for authorization once while signatures are being collected. To be considered for approval, the list of additional names must be submitted no later than 30 calendar days after the Election Board approves the initial list of circulators. Any additional circulator must wait for the Election Board to confirm that he or she is an eligible voter before that circulator may begin collecting signatures.
- g. A circulator may circulate more than one petition page. However, there shall only be one circulator for each petition page.
- h. Petition pages. Signatures may only be collected on the petition forms prepared by the Election Board. A principal sponsor may make copies of the blank forms if needed.
- i. Rules for signing petitions.
  - ii. A Tribal member may sign a petition for a particular constitutional question only once during that particular petition drive.
  - ii. A Tribal member who signs a petition must fill out all the information requested on that portion of the petition form.
  - iii. A Tribal member who cannot sign his or her own name to the petition for any reason may have his or her name signed by a person with a legal power of attorney or equivalent authorization. A copy of which must be attached.
  - iv. Any Tribal member who signs a petition must do so in the presence of the circulator.
  - v. No signature may be obtained through fraud, deceit, or misrepresentation.
  - vi. A circulator may sign a petition.
  - vii. Certification. The circulator shall sign and date the certification statement on each petition page only after all signatures appearing on that petition page have been obtained. To aid in the acceptance

of the petitions for purpose of calling the Secretarial election, the circulator must sign the certification in the presence of a notary, and have the circulator's signature notarized, as required by the petition rules of the Bureau of Indian Affairs.

- j. Public information. All information on a petition shall be public and shall be available to any and all members of the Tribe. Each person signing a petition agrees to this information being public.
- k. Informed signing. Each Tribal member signing a petition is considered to know the purpose and reasons for the petition. No Tribal member may withdraw his or her signature from a petition after it is signed.
- l. Subsequent proceedings. The petition, or copies thereof, are not valid for any subsequent proceeding.

#### **Section 5. Filing Completed Petition.**

- a. Filing. A Principal Sponsor shall present the completed petitions to an Election Board representative in person. The Principal Sponsor shall fill out and sign a statement on a form provided by the Election Board giving the number of signatures collected on the petitions, and certifying that the signatures were collected in compliance with these rules.
- b. Receipt. The Election Board representative will provide the Principal Sponsor with a copy of the petitions. The Election Board representative will note on the top of the petitions the date and time they were delivered; and the number of petition pages delivered. The copy of the petitions with these notations will serve as the principal sponsor's receipt.
- c. No additions or amendments. After completed petitions are delivered to the Election Board for a particular initiative drive, no additional signatures or petition pages may be submitted for that initiative drive. No other amendments or changes may be made to the petitions, either.

## **Section 6. Review of Signatures.**

- a. Notice of meeting to review petitions. The Election Board shall notify the principal sponsor(s) of the petitions of the time and place of the meeting where Election Board will review the petitions. The notice shall be sent no later than 14 calendar days before the meeting is to be held.
- b. Review of petitions. Only properly-completed signatures of eligible Tribal voters on properly-certified petition pages shall be counted toward the number of signatures necessary.
- c. Invalidation of petition page. A petition page shall be invalid where:
  - i. The page is not from the form prepared by the Election Board;
  - ii. The form prepared by the Election Board has been altered in any material way;
  - iii. The circulator of the petition page was not an eligible voter;
  - iv. The circulator statement is not signed, completed, and dated, or the date appears to have been materially altered after signing;
  - v. Any other irregularity on a petition page that calls into question its truthfulness or accuracy.
- d. Invalidation of petition signatures. A signature on a petition page shall be invalid where:
  - i. There is no printed name with the signature;
  - ii. There is no Tribal ID number with the signature;
  - iii. There is no date with the signature, or the date is illegible or has been materially altered;
  - iv. The person signing the petition is not an eligible voter of the Tribe at the time of the Election Board's meeting to review the petitions;
  - iv. The date with the signature is later than the date on the circulator statement;

- vi. The signature is by another person on behalf of the Tribal member, and there is no power of attorney or equivalent authorization attached;
  - vii. Any other irregularity that calls into question the truthfulness or accuracy of the signature and related information.
- e. In the event a Tribal member's signature appears on a petition more than once, all but one of the multiple signatures shall be stricken as invalid.
  - f. Individual signatures that are found to be invalid appearing on an otherwise valid petition page shall not invalidate any other valid signature found on the same valid petition page.
  - g. If a petition page is found to be invalid, then none of the signatures on that page shall be counted towards meeting the total number of signatures required.
  - h. The Election Board shall note on the petition page, where the signature appears, or on a separate sheet, the invalidation of each signature on a petition.
  - i. Motions. The Election Board shall invalidate petition signatures or petition pages only upon proper motion of the Board, which motion shall contain a notation of the reason for invalidation. Any decision to accept a signature or petition page questionable for any reason shall be made by proper motion of the Election Board.
  - j. Final decision. The approved minutes of the meeting where the Election Board reviewed the petitions shall be considered the final decision of the Election Board on the validity of the petitions.
  - k. Allegations of fraud. Credible allegations of fraud related to the petition circulating and signing processes shall be referred to the office of the Tribal Prosecutor.

## **Section 7. Notification of Secretary.**

- a. Valid petition. To be valid, a petition must be signed by 30% of the eligible voters of the Tribe, as verified by the Election Board. If the petitions are determined by motion of the Election Board to be valid, the Board shall present them to the Secretary or the Secretary's representative and request the calling of an election on the proposed amendment(s) under 25 CFR §81.5(d).
- b. Invalid petition. If the petitions are determined by motion of the Election Board to be invalid, the petition drive will be concluded. A petition declared invalid by the Election Board shall not be used in any later petition drive. However, nothing shall prevent the principal sponsor(s) of the petition drive from attempting another drive on the same question.
- c. Election Board membership. The Election Board will notify the Superintendent of the Bureau of Indian Affairs Michigan Agency ("Superintendent") that the Election Board selects its own members to serve as the remaining members of the election Board created by the Superintendent.
- d. Elections and all post-election proceedings on proposed constitutional amendments shall be conducted by the Secretary, as prescribed by 25 CFR Part 81.



## **CHAPTER 14. RUNOFF ELECTIONS**

### **Section 1. Scope and Eligibility.**

- a. This Chapter governs Runoff Elections that must be held when the votes for an office are tied in the initial count and the recount.
- b. Only the candidates who were tied in the original election are entitled to run in the Runoff Election.
- c. The candidates entitled to run in the Runoff Election will be placed on the ballot automatically, so long as they timely file their campaign finance report for the original election.
- d. No new Declaration of Candidacy Forms need to be submitted.
- e. A candidate who does not file their campaign finance report for the original election within five business days of that election will not be permitted to run in the Runoff Election.

### **Section 2. Announcement of Runoff Election.**

- a. Announcement of a Runoff Election. The Election Board will prepare and post an announcement of a Runoff Election promptly after determining that such an election must be held.
- b. Contents of Election Announcement. A runoff election announcement will include:
  - i. The date of the runoff election;
  - ii. The location of any polling place for voting in person, if applicable, and the hours the polling place or places will be open;
  - iii. The offices or vacancies to be elected;
  - iv. The time limits and deadlines set for each stage of the election process;
  - v. Any other information the Election Board, in its discretion, believes to be pertinent.

### **Section 3. Voting.**

- a. Voting by mail or in-person. The Election Board will provide for runoff ballots to be cast by mail, and may in its discretion also allow for voting in person.
- b. Polling place. For voting by mail, the homes of registered voters shall be considered polls for purposes of Article IX, Section 3(b) of the Tribal Constitution.
- c. The Election Board will update the list of registered voters prior to mailing out ballots.
- d. Timing of ballots:
  - i. Mailing ballots. Ballots will be mailed to all registered voters who are entitled to vote in the runoff election on a date that will be determined by the Election Board, but no later than 21 days before Election Day. It is the responsibility of the registered voter to contact the Election Board to obtain missing ballots and, if approved, replacement ballots.
  - ii. Receiving ballots. To be counted, completed mail ballots must be received by the Election Board, at its post office address, before noon on Runoff Election Day. It is the responsibility of the registered voter to verify that ballots are mailed in a timely fashion to meet the deadlines.
- e. Completing a mail ballot. Each election mailing to a registered voter shall contain two envelopes and one ballot, and instructions for the voter to complete the ballot. After completing the ballot, the voter shall fold the ballot, place the ballot in the Secrecy Envelope and seal the envelope.
  - i. Only one ballot should be placed in each Official Election Ballot Envelope.
  - ii. The Secrecy Envelope shall be placed in the Official Election Ballot Envelope and the voter shall seal the Official Election Ballot Envelope.
  - iii. The voter shall sign the statement printed on the back of the Official Election Ballot Envelope and shall mail the Envelope.

- f. Replacement Ballots. A registered voter may request a replacement ballot for a spoiled ballot if the voter informs the Election Board not less than 14 calendar days before the date of the election. The decision of whether to issue a replacement ballot is at the Election Board's discretion, and there is no right to a replacement ballot. The Election Board shall keep a list of persons to whom replacement ballots were issued, in addition to using appropriate technology to prevent any single Tribal member from voting twice in the same election.

#### **Section 4. Voting in Person.**

- a. Time and place. If a Runoff Election is determined to include in-person voting, that voting shall take place on Runoff Election Day at a polling place designated by the Election Board. The Election Board will also set the hours during which the polling place will be open on Election Day.
- b. Conduct of voting in person. If in-person voting is held for a Runoff Election, the Election Board shall conduct in-person voting in the same manner as it does in Chapter 4.

#### **Section 5. Counting the Ballots.**

- a. The ballots for a Runoff Election will be collected, counted, and may be observed in the same manner as set forth in Chapter 4 of the Election Board Regulations.
- b. Ties. In the event of a tie in the number of votes for a Runoff Election, the Election Board shall conduct an automatic recount under Chapter 6 of the Election Board Regulations. If the votes are still tied after the recount, a blind drawing will be held to determine the winner.

**Section 6. Retaining Election Records.** Runoff Election records shall be retained, maintained, and destroyed in the manner prescribed in Chapter 4 for other election records.

#### **Section 7. Announcement of Tentative Runoff Election Results.**

- a. Announcement and posting. The Election Board shall announce the tentative results of the Runoff Election within 72 hours of the final tabulation of the counts.

- b. The announcement shall contain the following statement:

“The election results posted here are tentative results. Final runoff election results shall be forwarded by the Election Board to the Tribal Ogéma, the Tribal Council, and the Tribal Court in a Final Report after the scheduled time for recount petitions and election challenges has lapsed, or after all challenges or recounts have been completed, whichever is longer.”

- c. The Election Board shall post the announcement in the designated locations, with the exception of the Tribal newspaper and website. The announcement shall be posted in the Tribal newspaper and website within a reasonable time.

**Section 8. Final Report for the Runoff.** The Election Board shall forward a Final Report for the Runoff Election to the Speaker of the Tribal Council, the Tribal Recorder, and the Tribal Ogéma. The Election Board shall forward the Final Report after the scheduled time for recount petitions and election challenges has lapsed, or after all recounts and/or challenges have been completed. The Final Report shall consist of the following information:

- a. Total number of registered voters;
- b. Number of ballots issued;
- c. Number of ballots received;
- d. Number of "undeliverable" Official Election Ballot Envelopes;
- e. Number of spoiled ballots and rejected ballots;
- f. Total votes cast for each candidate;
- g. List of ties and final results of the tie;
- h. List of candidates elected and position elected to.

## **CHAPTER 15. CAMPAIGNING**

**Section 1. Scope and Purpose.** This chapter applies to all election campaigns. Its purpose is to provide for content-neutral regulation of certain campaign activities, to ensure that they do not interfere with other Tribal operations and activities.

**Section 2. Posting Campaign Signs – Properties Where Prohibited.** Campaign signs may not be posted at the following locations:

- a. Government Center, Manistee
- b. Aki Community Center, Shaw Be Quo-Ung, Manistee
- c. Little River Casino Resort, Manistee
- d. Justice Center, Domres Road, Manistee
- e. LRBOI Muskegon Office, West Hackley Avenue, Muskegon
- f. Natural Resources Building, Manistee
- g. Fruitport Property, 4800 S. Harvey Street, Muskegon

**Section 3. Posting Campaign Signs – Other Tribal Property.** Campaign signs may be posted on other Tribal property, if the following conditions are met:

- a. The candidate has the permission of the lessee or site manager of the property, both to post the sign and for its location.
- b. For Tribal-owned properties that are operated by the Tribe or a Tribal enterprise, the decisions of whether to allow signs on the property and where signs may be posted are up to the manager of the site. However, the site manager may not discriminate between candidates. If signs are allowed for one candidate, all other declared candidates must have the same opportunity.
- c. For houses leased at Aki, the decision to post campaign signs for candidates is at the discretion of the lessee. These lessees are not under the same neutrality requirement as the managers of other Tribal property.

- d. Placement of signs must not create a traffic hazard or other safety hazard.
- e. Signs shall not be placed in such a way as to obstruct campaign signs or other signs previously placed at the same location.
- f. Candidates must include their name and address on each sign. If a sign is sponsored by someone other than the candidate, then the name and address of the sponsor must be include on the sign as well.

#### **Section 4. Timing of Campaign Signs.**

- a. Campaign signs may be posted not sooner than the Election Board's announcement of an election.
- b. All campaign signs must be removed no later than five calendar days after Election Day.
- c. Signs that are not removed within five calendar days will be removed and disposed of by the Tribe, and the cost will be assessed to the candidate.

#### **Section 5. Campaigning and Canvassing in Tribal-Owned Buildings.**

- a. Campaigning for office, collecting signatures, and soliciting votes are allowed within the main entrances and meeting room entrance areas of Tribal-owned buildings, and outside those buildings, unless the facility manager specifically prohibits these activities.
- b. Campaigning for office, collecting signatures, and soliciting votes must be done in a manner that does not obstruct people from freely entering and exiting the buildings or meeting rooms, or constitute harassment.
- c. Signs, posters, and flyers may not be placed on the windshields of cars parked at Tribal-owned buildings.
- d. Campaigning for office, collecting signatures, and soliciting votes is permitted in other areas within Tribal-owned buildings at special events, unless these activities are specifically prohibited by the person who is conducting or facilitating the meeting.
- e. The wearing of campaign hats, shirts, and buttons in Tribal-owned buildings is not prohibited by these regulations.

- f. The making of policy-related comments by persons running for office, their supporters, and persons supporting or opposing petition drives during the public comment portions of public meetings is not prohibited by these regulations, but is subject to the rules governing those meetings.
- g. For Tribal employees, if there is a restriction in an employee handbook or other employment policy that is more restrictive than these regulations, then the employee handbook or employment policy controls.
- h. No person shall campaign, including but not limited to the posting or holding of signs, within 100 feet of an in-person polling place on General Election Day. For the purpose of this sub-rule only, "campaign" shall mean the display of campaign posters, signs, or other campaign materials; distribution of campaign materials; or solicitation of votes for or against any person or ballot question. For the purpose of this sub-rule only, "campaign" shall not mean wearing a button, cap, hat, pin, shirt, or other article of clothing that supports a candidate or advocates a position on a ballot question.

**Section 6. Enforcement.** These rules may be enforced by the Election Board acting in cooperation with the Tribal Police. Campaign signs placed in violation of these rules may be removed by the Tribal Police and confiscated or destroyed. A person engaged in an activity that violates a rule in this Chapter will be asked to cease, and if they refuse to comply they may be removed from the area by the Tribal Police.