

## **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS ELECTION BOARD POLICIES AND PROCEDURES**

- I. Purpose.** As an independent entity of the Tribe, the Constitution authorizes the Election Board to conduct all general and special elections and to adopt rules and regulations governing elections. In exercise of such authority, the Election Board approves the following Policies and Procedures to conduct elections and in general all activities of the Election Board.
- II. Definitions.** The Election Board Policies and Procedures (EBPP) adopt the same Definitions contained in the Tribal Elections Regulations approved on November 16, 2012.
- III. Election Board Meetings.**
- A. Frequency, time and location of meetings. Meetings of the Board shall be held at least quarterly. The Board may meet as often as necessary to carry out its duties and functions. Each meeting of the Board shall be held at a place and time specified by the advance notice required in section G. below and shall be open to the Tribal membership and any other person that Tribal Council may designate to attend.
- B. Meeting Agendas. Each meeting of the Board will proceed in accordance with an agenda prepared in advance by the Board's Chairperson. The agenda will include the following items in the following sequence:
1. Call to Order. The Chairperson calls the meeting to order.
  2. Roll Call. The Secretary performs roll call, noting all Board members, staff members, Tribal Council members and other visitors present, and noting any Board member absences and whether the absences are excused.
  3. Motions. All official action must be taken by motion. Motions will be made, supported and read back before taking a vote. Any motion recorded in the Minutes shall be identical to that read back prior to the vote.
  4. Approval of the Agenda. The Board reviews the agenda and notes whether the agenda should be amended to accommodate any special needs during the meeting. The board then approves the agenda as prepared or as amended by motion.
  5. Approval of Minutes. The Board reviews the Minutes of the immediately preceding meeting as presented by the Secretary in draft form on paper with numbered lines. The Board then approves the Minutes as presented or as amended by motion.
  6. Public Comment. The Board opens the floor to permit any LTBB members to make comments or ask questions.

7. Chairperson's Report. The Chairperson will present a written report, summarizing any announcements, activities or concerns that relate to the Board's work.
  8. Vice Chairperson's Report: The Vice-Chair will present a written report summarizing any announcements, activities or concerns that relate to the Board's work.
  9. Secretary/Treasurer's Report: The Secretary/Treasurer will present a written report summarizing any announcements, activities or concerns that relate to the Board's work, and will provide information relevant to the Board's budget when appropriate.
  10. Open Session. The Board will discuss items that relate to its work that do not require the privacy of Closed Session. Such items may include, but are not limited to, the review or drafting of legislation, rules, or regulations, election policies, or public communications with the Tribe or Tribal Council. Such items may also include the review of the Board's bylaws, rules of procedure, code of ethics, mission, goals, or budget.
  11. Closed Session. The Board will enter Closed Session to discuss any item permitted for discussion under section **III, C.** of these EBPP.
  12. New Business. The Board will discuss any additional new business not already addressed in the meeting.
  13. Next Meeting. The Board will confirm the date, time and location of the next meeting. The Secretary will note this information and ensure that all the Board members and the public receive proper notice in accordance with section **III, G. 1.** and **2.** of these EBPP.
  14. Adjournment. The Chairperson will adjourn the meeting.
- C. Closed Session. Meetings are open to the public except when the Commission is in Closed Session. Closed Sessions are permitted when the Commission considers personnel matters or confidential attorney/client privileged communication(s).
- D. Decorum. The proceedings of Commission meetings shall at all times be respectful and maintain a decorum appropriate for the carrying out of official Tribal business.
- E. Public Participation. When members of the public attend Commission meetings, the Chairperson is advised to immediately welcome them and explain that an opportunity for public comments will be available during the Public Comment period on the agenda.

- F. **Quorum.** A simple majority number of Board members notwithstanding vacancies shall constitute a quorum. Business shall only be conducted at a meeting when a quorum is present.
- G. **Notice of Meetings**
1. **Public Notice.** The Board shall schedule regular meetings six (6) months in advance and post public notice of the meetings on the Tribal website and within the Administrative/Governmental Building. In the event any regularly scheduled meeting is changed, the Board must provide public notice of the meeting at least five (5) days in advance by any appropriate and effective means. Such appropriate and effective means may include publication of the notice on the Tribal website and in the Administrative/Governmental Building. The Board may also schedule special meetings when necessary to carry out its duties and functions, providing public notice with five (5) days in advance.
  2. **Notice of Board members.** If a Board member is present during a Board meeting when the date, time and location of a future meeting is scheduled, that Board member will be deemed to have received notice of the meeting. If any Board member fails to receive notice at a Board meeting, the Secretary shall provide notice to the member by personal communication, facsimile, e-mail, or mail at least ten (10) days before the scheduled meeting. Such advance notice shall not be required prior to telephone meetings held in extraordinary circumstances in accordance with letter **J.** below.
- H. **Attendance.** In the event a Board member accumulates three (3) unexcused absences from regularly-scheduled meetings, such absences shall be deemed misconduct and the neglect of duties and the Commission may petition the Tribal Chairman for removal of the member in accordance with the Commissioner Removal and Nepotism Act.
- I. **Voting.** At all meetings of the Board where a quorum is present, all matters shall be decided by a vote of the majority of all of the Board members present at the meeting and eligible to vote. The presiding officer shall vote on all issues except as otherwise provided within these EBPP.
- J. **Telephone Meetings.** The Board may take official action through phone polls or conference calls, but only in extraordinary circumstances and only for the limited purpose of addressing a matter which may cause the Tribe significant damage. In the event the Board acts through a phone poll or conference call, the Secretary of the Board or the Secretary's designee must certify in a document conforming to Form K that attempts were made to contact each Board member. In the event any Board member cannot be contacted for a phone poll or conference call, the Secretary must certify that more than one attempt was made to contact the member by any practical means including telephone, facsimile, e-mail or in person. The results of any official action taken through a phone poll or conference call shall be read out loud at the next regularly scheduled Board meeting. The phone poll will be ratified and recorded in the Minutes
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of the meeting at which it is presented. Stipends will not be paid to Board members for participation in phone polls or conference calls.

- K. Record of Meetings. The Secretary of the Board shall keep, or cause to be kept, a complete and accurate minute book containing a record of the proceedings of each meeting. Copies of both the draft and approved Minutes shall be made available to each Board member. A copy of the approved Minutes shall be forwarded to Tribal Council and also made available to the Tribal public by reasonable request or as provided for by any applicable Tribal statute. Closed Session Minutes are exempt from public disclosure unless the Election Board determines that public disclosure will no longer harm Tribal interests.
- L. Recording Devices. Recording devices may be used solely for the purpose of recording and confirming the accuracy of motions made verbally during a regular Board meeting. The official record of meetings shall be the approved written Minutes and all recordings may be erased and/or destroyed upon approval of the Minutes.

#### **IV. Appointment, Duties, Term and Number of Officers**

- A. Appointment. The officers of the Board shall be appointed by the Board. The officers shall consist of a Chairperson, Vice Chairperson, and Secretary/Treasurer. The officers shall perform such duties and have such responsibilities as provided for in these EBPP or as otherwise determined by the Board. The election of officers will take place at the first scheduled meeting after a new Board member has been appointed or reappointed. There is no limitation on the reappointment of officers to successive terms.
- B. Chairperson's Duties. The Chairperson shall call and preside over Board meetings, represent the Board outside Board meetings as directed by the Board members, and otherwise be responsible for the active management of the business of the Board consistent with the Board's powers, duties and limitations on authority as prescribed by the Board or specified by law. The Chairperson must also keep a record of all Board member terms, including the date each Board member is appointed, the time needed to recruit a new member to fill a vacancy, and the date an appointment ends. The Chairperson shall also have the authority to delegate to any Board member any of the duties and responsibilities of the Chairperson, and to exercise any other authority delegated to the Chairperson by statute or action of the Tribal Council.
- C. Vice Chairperson's Duties. The Vice Chairperson shall assume the duties and exercise the powers of the Chairperson in the event of the Chairperson's absence or incapacity and shall perform such other duties as the Board may from time to time prescribe or as may be delegated by the Chairperson.
- D. Secretary's/Treasurer's Duties. The Secretary/Treasurer shall be responsible for taking roll call at all Board meetings and for maintaining an attendance record for all regular and emergency meetings. In addition, the Secretary shall be responsible for making a record, or causing a record to be made, of the proceedings of all meetings of the Board and its committees. These records must take the form of Minutes and must be placed in a book kept by the Secretary for that purpose. At each meeting, the Secretary shall

present the Minutes of the immediately preceding meeting in draft form on paper with numbered lines for the review of all Board members. Upon the Board's review of the Minutes and the notation of any revisions, the Secretary will note whether the Board passes a motion to approve the Minutes as presented or as amended. In the event the Minutes are approved as presented, the Secretary will immediately sign them and obtain the signature of the Chairperson or Vice Chairperson of the Board. If the Minutes are approved as amended, the Secretary will bring a clean, revised copy of the Minutes to the next meeting, sign them and obtain the signature of the Chairperson or Vice Chairperson. In addition to the Minutes, the Secretary shall also maintain a confidential and secure master file of all Board business at such storage location as agreed upon between the Board and Tribal Council. The Secretary also shall provide the public and the Board members with advance notice of all meetings in accordance with section **III. G.** of these EBPP, and shall do such other duties as may be prescribed by the Board or delegated to the Secretary by the Chairperson. All phone polls will be conducted by the Secretary or staff as designated by the Board. In addition to the above responsibilities, the Secretary will also inform the Board members of the communications received by the Board. The Secretary/ Treasurer shall also be the Chief Financial Officer of the Board and shall exercise the duties and powers prescribed by the Board or specified by law.

- E. Resignation. An officer may resign by giving written notice to the Board. The resignation is effective when given to the Board, regardless of Board's acceptance, unless the resignation specifies a later effective date.
- F. Removal. An officer may be removed at any time, with or without cause, by a resolution approved by the affirmation vote of a majority of the Board members present. Upon removal from the position of an officer, the Board member will remain on the Board unless removal is obtained in accordance with the Commissioner Removal and Nepotism Act.
- G. Vacancies. If any office becomes vacant because of death, resignation, retirement, disqualification, removal, or other cause, the Board shall by majority vote choose a successor from among the remaining Board members who will hold the office for the remainder of the term.

## **V. Miscellaneous**

- A. Signatures. The Board Chairperson or the Chairperson's designee may sign papers for and on behalf of the Board upon authorization from the Board as a whole.
- B. Fiscal Year. The fiscal year of the Board shall be the fiscal year as determined for the Tribal government operations by the Tribal Council.

## **VI. Election Board Forms**

- A. Nomination Petition. See Form A.
- B. Voter Registration Form. See Form B.
- C. Voter Change of Name Form. See Form B1

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- D. Candidate Statement Form. See Form C.
- E. Notice of Candidate Withdrawal Form. See Form D.
- F. Poll Sitters' Agreement. See Form E.
- G. Poll Watchers' Guidelines. See Form F.
- H. Replacement Ballot Request Form. See Form G.
- I. Financial Disclosure by Tribal Officials Form. See Form H.
- J. Criminal Background Disclosure Authorization and Release. See Form I.
- K. Candidate Campaign Financial Statement Form. See Form J.

## **VII. Candidate Nomination Procedures**

### **A. Nomination Petition**

1. Nominations for candidates must be made on the form designated by the Election Board (Form A).
2. At least 25 registered voters must sign the Nomination Petition.
3. A registered voter may sign more than one Nomination Petition.
4. A fax signature will be accepted if it is legible and verifiable with documentation on file with the Election Board.

### **B. Voter Registration**

1. To participate in an election the Tribal citizen must be registered to vote at least 90 days in advance of the Election Date. The Voter Registration Form (Form B) is available for downloading and printing on the Tribal website.
2. The Voter Registration Form must be signed by the Tribal citizen containing both the signature of the voter and the signature of a notary public or a legible copy of any of the following forms of identification: a valid Tribal Identification Card, state-issued Driver's License, state-issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.
3. Ballots are mailed to the Tribal citizen's address on record. This record is based on the addresses kept by the Enrollment Department. It is the responsibility of the voter to notify the Enrollment Department of any change of address.
4. The Change of Name Form (Form B1) should be used to advise the Election Board of any name change.

### **C. Candidate Statement**

1. A candidate statement (Form C) must contain a brief essay/summary of his/her qualifications, experience, education, and cultural achievements. Disclosure of personal information, such as family relations, is not required. The candidate must be aware that the Candidate Statement will be sent to the voters as filed, without further editing, thus the Election Board shall be held harmless for any alleged violation of privacy or confidentiality arising out of said disclosure.

### **D. Notice of Candidate Withdrawal**

1. A candidate may withdraw his/her candidacy but must do so in writing no less than forty-five (45) days prior to the Election Date.

2. If the candidate's withdrawal is given once the ballots have been printed, the Election Board reserves the right at its discretion, considering the circumstances of the withdrawal, to assess the Candidate the cost of mailing all registered voters a notice that his/her name on the ballot should not be considered as a choice due to his/her withdrawal.
3. Mailing of the Notice of Candidate Withdrawal Form (Form D) when mandated, shall allow the Election Board to not count the votes cast for the Candidate subject of said notice.
4. All candidates withdrawing from the race are not exempt from filing the proper Candidate Campaign Financial Disclosure.

#### E. Poll Sitters' Agreement

1. At least 90 days before the Election Date, the Secretary of the Election Board will publish an announcement in the media of the Election Board's choice, requesting applications of qualified individuals to serve as Poll Sitters on the day of the election.
2. Candidates to the Poll Sitter position will be asked to fill out an application that will allow the Board to establish whether or not they meet the qualifications set by the Tribal Elections Regulations. The Board will sign a Poll Sitters' Agreement (Form E) with the candidate(s) to the position who, in their judgment, best meet the qualifications and could best serve the role.

#### F. Poll Watchers' Guidelines

1. Poll Watchers are not to interfere with the election procedures and must conform to Poll Watchers' Guidelines (Form F).
2. A Poll Watcher's observations of any discrepancies or deviations from standard procedures must be addressed with the candidate or sponsor who selected him/her to perform the duties of Poll Watcher.
3. Poll Watchers are not allowed to take still or motion pictures while performing their duties, unless the Election Board has provided advanced authorization.
4. Poll Watchers whose behavior is disruptive and contrary to their functions may be removed from the Polling Place, at the request of the Election Board.

- G. **Ballot Replacement.** If a ballot is spoiled or lost, an eligible voter may request a replacement ballot by calling or mailing a Replacement Ballot Request Form to the Election Board Secretary. The requester must complete Form G stating the reason(s) why a replacement ballot is requested. When the request is done via phone the Election Board Secretary must fill in the form and state in the signature line of the Form that the request is being done via telephone call. Replacement ballots can be mailed up to seven days prior to the Election Date. A Replacement Ballot required within seven days of the Election Date must be picked up in person.

#### H. Financial Disclosure by Tribal Officials

1. All candidates for Tribal Chair, Vice-Chair and Tribal Council must complete a Financial Disclosure by Tribal Officials Form (Form H) as per Waganakising

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Odawak Statute 2006-023. The Election Board is mandated to collect this information on a yearly basis.

2. The completed Financial Disclosure Form must be enclosed with the Nomination Petition for candidates. Serving elected officials will be mailed the form on the anniversary of their election.
3. It is the responsibility of the candidate/elected official to update the information contained in the form as his/her financial circumstances change.
4. All information contained in the form is kept confidential; however, it is available for review by any Tribal citizen. Tribal citizens are allowed to review the information on file upon filling out a Request for Information Form (Form L). Tribal citizens reviewing the information on file cannot make copies of the forms reviewed. The review will be done in the presence of an Election Board member.

I. Criminal Background Disclosure Authorization and Release

1. The Election Board has the Constitutional mandate to run criminal background checks on certified candidates running for Chair, Vice-Chair and Tribal Council.
2. Upon validation of the Nomination Petitions and the completion of the final list of verified candidates as per section **XII. A. 7.** of the Tribal Election Regulations, the Election Board will submit the list to the Tribal Police Department to run a LEIN database report for each of the names included on the list. Prior to submitting the above request, the Election Board must secure from each verified candidate a signed copy of the Criminal Background Disclosure Authorization and Release Form (Form I).
3. Upon receiving the results of the LEIN database report, the Election Board will issue a statement of eligibility. In such statement, the Election Board will not disclose the results of the background check, but only whether the candidate/elected officials are eligible to run/serve as per current legislation.
4. The criminal background information of a candidate will be kept in a sealed file until the election in which the candidate is running is certified. The criminal background information of an elected official will be kept in a sealed file for the duration of his/her term.
5. The criminal background information of any Tribal citizen kept on file by the Election Board is exempt from review by Tribal citizens. The Election Board is only authorized to disclose to any Tribal citizen who so requests it, the eligibility of the candidate or public official on the grounds of the background check.
6. If a candidate is found to be ineligible to serve in office, the Election Board will remove the candidate's name from the final list of verified candidates and will send the candidate the results of the background check via certified mail.

- J. Candidate Campaign Financial Statement. Each candidate running for office shall submit a financial statement on the form issued by the Election Board (Form J). The form is due within ten (10) days after the certification of the election in which the candidate was eligible to run, regardless of whether he/she was elected or not. A separate form is required for the general and the primary elections in which the candidate ran. The information contained in the forms is kept confidential. However,

the Election Board has the authority to review such information to determine whether any campaign finance statute has been breached or to assess any possible conflict of interest that may arise in the future.

### **VIII. Election Date Procedures**

- A. Polls. Polls open at 9:00 a.m. at a place designated by the Election Board and announced to the citizenship through the Election Notice.
- B. Retrieval of Ballots. Ballots will be retrieved twice on the day of the election. Upon opening the polls the Election Board Chairperson or his/her designee accompanied another member of the Board and a Tribal Police officer will go to the Post Office designated to receive the ballots. A second retrieval will be done in the same manner at 4:00 p.m. on the same day, thus retrieving ballots delivered to the P.O. Box on the day of the election.
- C. The ballots are brought back to the polling place, removed from the envelopes, and placed in the ballot box.
- D. The envelopes are counted and the Tribal citizen number written on the outside of the envelope is recorded by the Election Board.
- E. The ballots are opened and counted. The result of the counting is recorded by the Election Board. The Election Board may use electronic means to count the ballots.
- F. Ballots that contain a write-in candidate will be considered null and void.
- G. If the intent of a given ballot cannot be inferred from normal observation, the ballot will be considered null and void.
- I. If the count is made by mechanical means, any rejected vote will be hand counted. The Election Board must include in its report of the election the number of votes rejected by the mechanical means utilized.
- J. Polls close at 6:00 p.m. Eastern Standard Time (“EST”) and the counting and recording continue until all the ballots are counted and recorded. Ballots will not be accepted after 6:00 p.m. EST.
- K. The results are read aloud and then posted as stated in the Regulations. Only the certified results will be used to determine who the winners of the election are.
- L. In the event of a tie, the Election Board must proceed in accordance with the procedure outlined in the Regulations. If a recount is required this must be completed in accordance with the Regulations.

**IX. Certification of Election Results.** The election shall be certified by the Election Board in the manner established in the Tribal Elections Regulations. Prior to issuing the certification the Election Board Secretary must issue an affidavit that the Board has not been served any notice in regard to unresolved challenges. The Certified results shall be sent to the Tribal Council Secretary and the office of the Tribal Chair.

**X. Challenges of Election Results.** Upon being served any challenges filed in Tribal Court, the Election Board Secretary must notify the Board members who shall review the notice and prepare the background documentation to respond to the complaint.

**XI. Recall.** All recall efforts must be in compliance with the procedure established by the Constitution and the Tribal Elections Regulations.

**XII. Referendum and Initiative.** Referendums and Initiatives must be in compliance with the procedure established by the Constitution and the Tribal Elections Regulations.

**XIII. Amendments.** These Election Board Policies and Procedures may be amended by a majority vote of a quorum of the Board at any meeting, except as limited in the Regulations. Any amendment adopted by the Board is effective immediately and continues in effect unless the amendment is subsequently rescinded by the Board. Upon any amendment of these Policies and Procedures, the Secretary will post the amendment on the Tribal website and in the Administrative/Governmental Building.

**XIV. Savings Clause.** In the event that any phrase, provision, part, paragraph, subsection or section of these Policies and Procedures is found by a court of competent jurisdiction to violate the Constitution, statutes, or regulations of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and will be deleted from these Policies and Procedures. The entirety of the balance of the Policies and Procedures shall remain in full and binding force and effect.