

ELECTION ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 1

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THE KLAMATH TRIBES

ELECTION ORDINANCE

Klamath Tribal Code § 2.01

a) **Purpose:** The purpose of this Election Ordinance is to provide fair, uniform and efficient Tribal elections under Articles III, V, VI, VII, VIII and XI of the Constitution of the Klamath Tribes.

b) **Board of Elections:**

(1) **Composition.** Board of Elections (Board of Elections or Board) shall consist of fifteen (15) Tribal members plus five (5) alternates.

(2) **Qualifications:** Board members and alternates and those nominating Board members and alternates shall be enrolled persons of the Klamath Tribes and shall be eighteen (18) years of age or older. No person shall be elected who is nominated for elective office or who has an immediate family member who is nominated for elective office. "Immediate family member" means husband, wife, mother, father, sister, brother, son, daughter, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparents, and grandchild.

(3) **Nomination and Election of New Board Members and Alternates.** The new Board shall be elected at the February General Council meeting in an election year, immediately following nominations for Tribal Council. The current Board Chairman or other Board Member shall conduct the nomination and election process for the fifteen members and for the five alternate members of the Board. The fifteen nominees with the highest number of votes will become Board members. The five with the next highest numbers of votes shall become first alternate, second alternate, third alternate, fourth alternate, and fifth alternate, determined by number of votes each received. Nominations may be made only by those eligible to vote. The person nominating shall state his or her name and the name of the candidate nominated. The current Board Chairman must recognize all persons wishing to nominate a candidate. The Tribes' Enrollment Coordinator shall immediately verify that both the nominator and the candidate are qualified. The Tribes' Enrollment Coordinator's decision as to qualifications for Board nominators and candidates is final. Board members and alternates must accept their positions in writing.

(4) **Selection of Board Officers.** The Board shall select individual Board members to serve as Board Chairman and Board Secretary.

(5) Filling of Board Vacancies: Board vacancies shall be filled by the alternates in order. If fewer than fifteen board members and five alternates are elected, the Board is authorized to use Tribal Administration staff who meet the qualifications in Section b)(2) to fill any empty positions.

(6) Term of Office: Board members shall serve until a new Board is elected at the February General Council meeting of each election year.

(7) Duties of the Board of Elections: It shall be the duty of the Board to oversee the election process in accordance with this Election Ordinance. Following their election to the Board, each Board member shall be sworn in by the Tribal Chairman or his designee and sign an oath stating that the member shall serve to the best of his or her ability, and shall make every effort to prevent fraud or abuse of the election process. The oath shall become part of the election records. The Board shall perform all duties required by this Election Ordinance, the Constitution of the Klamath Tribes, and other duties necessary to conduct a fair and efficient election process. The duties of the Board shall include, but are not limited to:

(A) Conducting and supervising the election of the Tribal Council members and officers;

(B) Conducting and supervising the election of the Klamath Tribal Court Chief Judge;

(C) Publishing the election date and the deadlines for all related events;

(D) Developing and approving criteria for excusing absences by Tribal Council nominees who were unable to attend the February General Council meeting and unable to accept in writing at that meeting their nomination for a Tribal Council position, and determining whether the nominee's explanation of such absence meets the criteria;

(E) Preparing the election ballots;

(F) Deciding questions of eligibility to vote and insuring that ballots are distributed only to qualified voters;

(G) Accepting or rejecting ballots in accordance with the procedure outlined in this Election Ordinance;

(H) Counting and tabulating ballots (using electronic or other counting and tabulating equipment and/or services of election service company, at the option of the Board) at the close of voting in accordance with the procedures outlined in this Election Ordinance;

(I) Preserving ballots cast until the Tribal Council members' respective terms of office have expired;

(J) Insuring adequate record-keeping so as to provide sufficient information to determine the validity of an election;

(K) Reviewing and investigating claims of irregularity in the election and making determinations and findings as to the validity or invalidity of any such claim;

(L) Providing truthful and accurate assistance to voters who request it;

(M) Selecting a Chairman and Secretary, and designating alternates to fill any Board vacancies; and

(N) Promulgating and enforcing such rules as may be necessary to conduct fair and efficient elections under this Election Ordinance.

(8) Quorum for Board Meetings and Actions: Eight board members constitute a quorum, and shall be the minimum number present at each Board meeting necessary for all Board actions and determinations.

(9) Rule Making Authority: The Board has authority to promulgate and enforce such rules as it finds necessary to carry out its duties under this Election Ordinance. Any such rules shall be in writing and adopted by a majority of the Board. Following the adoption of any such rule, the Board shall submit that rule in writing to the Tribal Council with a written explanation of the need for the rule, for the purpose of considering an amendment to this Election Ordinance to include the provisions of the rule.

(10) Reimbursement: Members of the Board shall be reimbursed at regular Tribal rates for expenses incurred in connection with carrying out their official duties.

(11) Election Clerk: The Election Clerk serves as administrative support to the Board of Elections, shall be a Tribal Administration employee and may not be a member of the Board of Elections. The Election Clerk shall participate in all Board of Elections' functions but shall not have a vote in Board functions.

c) Qualification of Voters:

(1) Who May Vote: Any enrolled member of the Klamath Tribes who will be eighteen years of age or older on the date of any scheduled election shall have the right to vote in that election.

(2) No Registration: No registration to vote shall be required.

(3) Voters List: The Tribal Enrollment Coordinator shall provide an updated list of qualified voters to the new Board of Elections at the February General Council meeting. The Election Clerk shall maintain and keep a current poll book, with the voters listed in alphabetical order or as close thereto as possible.

d) Tribal Council Election:

(1) Qualifications: Any enrolled member of the Klamath Tribes who is present at the February General Council meeting at which Tribal Council nominations are made and who will be eighteen years of age or older on the date of the election is qualified to be a candidate. If a nominee is not present at the General Council meeting at which he or she is nominated because he or she was unable to attend, the nominee may request that an exception be made by delivering a written explanation of the absence in person to the Election Clerk or other person designated by the Election Clerk within seven (7) days after the February General Council meeting at which the nomination was made. The Board of Elections shall decide if the excuse is acceptable and shall notify the nominee of its decision by certified mail: The decision of the Board of Elections is final.

(2) Nominations: Nominations shall be made every three years at the February General Council meeting. Nominations may be made only by those eligible to vote. The current Tribal Chairman shall conduct the nominations. Nominations shall be open for each position in order, and shall remain open until at least three minutes after the previous nomination. The person nominating shall state his or her name and the name of the candidate nominated. The Tribal Chairman must recognize all persons wishing to nominate a candidate. The Tribes' Enrollment Coordinator shall immediately verify that the nominator and the candidate are qualified. The Tribes' Enrollment Coordinator's decision as to qualifications is final.

(3) Acceptance of Nominations: Nominations must be accepted or declined in writing before the end of the February General Council meeting at which nominations are made; except as provided in Section d)(1). No person shall accept more than one nomination.

e) Chief Judge Election:

Any person who has requested to be certified and has received certification from the Tribal Council that he or she meets the judicial qualification requirements of the Tribal Court Ordinance shall be placed on an election ballot.

f) Conduct of Election:

(1) Ballots: The Board of Elections shall cause the ballots to be prepared. The names of the candidates for each Tribal Council office shall appear on the ballot in alphabetical order by last name. The names of candidates for Chief Judge shall also appear on the ballot in alphabetical order separate from the Tribal Council candidates. Write-in candidates shall be allowed for Tribal Council positions only. Space will be provided on the ballot for write-in candidates for each Tribal Council position. Ballot packages including ballot(s) and return envelope(s) with pre-paid postage will be mailed to each eligible voter twenty (20) working days after the nominations using current enrollment address listing and will include, if available at the time of mailing, a one-page candidate information sheet provided at the candidate's expense. Return envelopes will contain a place for the eligible voter to sign his or her legal name and roll number. Ballot

packages will contain instructions for voting and returning the ballots by mail in the envelopes provided.

(2) Voting: Voting shall be conducted by secret ballot in a mail-in election. Ballots must be returned to and received by the post office designated on the return envelope by 5:00 p.m. on the sixtieth (60th) day after the nominations (Election Day) or they will not be counted in the election. All ballots received by the deadline shall be stored in a locked secure location until they are tabulated on the sixty-first (61st) day after the nominations.

(3) Absentee Ballots: Since all voting is by mail in ballot, no separate provisions for absentee ballots are included in this Election Ordinance.

(4) General Duties and Counting of Ballots: The Board of Elections shall oversee the counting of ballots and the verification of voter eligibility for all ballots returned by the deadline. The Board may use an independent election services company designated by the Board to assist in the election process. The candidate receiving a majority of the votes for a position shall be deemed elected, subject to any claim of irregularity.

(5) Recount of Votes: In the event a person elected to office has two or less votes than the person receiving the next highest number of votes, or in the case of a tie for a position that only one candidate can fill, the Board of Elections shall cause votes for that particular position to be recounted. When the recount for a position changes the vote tally and the tally is closer or a different candidate is the winner, a second recount shall be conducted.

(6) Claims of Irregularity:

(A) No claim of irregularity will be considered unless it is made within ten (10) days following the Election Day. A claim of irregularity must be made in writing by a member of the General Council and mailed certified, return receipt requested, to the Chairman of the Board of Elections, Klamath Tribal Office, P.O. Box 436, Chiloquin, Oregon 97624. The claim must be received in the Tribal Office within ten (10) days following the Election Day, not the election results. The claim of irregularity must clearly state that it is a claim of irregularity and state the basis for the claim.

(B) Determination by the Board of Elections: The Board of Elections shall meet to consider the claim of irregularity. The Board may conduct an investigation or adjourn and reconvene the Board meeting, if necessary. The Board shall make a written determination with findings within fifteen (15) days following the Election Day.

(C) Report to General Council: If the Board of Elections determines that an irregularity has occurred, the Board shall ask the current Tribal Chairman to call a special General Council meeting for the Board to report its determination and findings. If the Board determines that an irregularity has not occurred, the Board shall report its determination and findings at the next regular meeting of the General Council. If the

Board does not request a special meeting of the General Council, the Tribal member asserting the claim of irregularity may ask the Tribal Council to call a special meeting of the General Council. If the Tribal Council decides to call a special meeting of the General Council, the Board of Elections shall report its determination findings at that special meeting of the General Council.

(D) General Council's Decision on Determination and Findings: If, after hearing the Board of Elections' determination and findings on a claim of irregularity, the General Council determines that an irregularity has occurred, the General Council will determine if the irregularity affected the outcome of the election. If the General Council determines that the irregularity did affect the outcome of the election, the General Council shall decide the appropriate action to be taken. If the General Council decides that the only appropriate action to take is to call for a new election for some or all of the positions, then there will be a new election in accordance with procedures established by the Board and approved by the General Council. In a new election, the candidates shall be limited to candidates who have already been nominated for those positions.

(7) Certification of Election:

(A) Certification: After ballots have been tabulated, the Board of Elections shall prepare a certification of the results of the election for each position that shall be signed by the Board Chairman, Board Secretary and two Board members, and contain the following information:

- (1) The number of ballots cast;
- (2) The number of invalid ballots rejected;
- (3) The total number of valid ballots;
- (4) The number of votes cast for each office, including the number of write-ins;
- (5) The name of the person elected to each position;
- (6) The number of votes cast for each candidate.

In the event of a recount or claim of irregularity with respect to one or more positions, the Board shall certify the election for any such position only after the recount has occurred or after the claim of irregularity has been resolved.

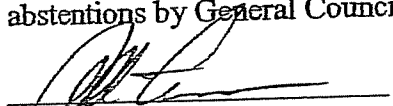
(B) Publication: The Board of Elections shall make public its certification. At a minimum, the certification shall be posted at the Klamath Tribal Office and published in the Klamath Tribal Newsletter.

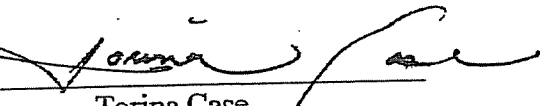
g) Taking Office:

Each elected candidate for Tribal Council positions and for the Chief Judge position shall take office at the next regularly scheduled Tribal Council meeting following the Board of Election's certification of their election to that position. In the event that the General Council determines pursuant to Section f)(6) of this Election Ordinance that an irregularity has occurred that affected the outcome of the election, the General Council shall decide the appropriate action to be taken to address the irregularity. Once the irregularity has been addressed and resolved pursuant to the terms of this Election Ordinance, the Board shall prepare a certification of election as set forth in Section f)(7) of this Election Ordinance. After such certification of the election is published pursuant to Section f)(7)(B) of this Election Ordinance, the elected candidates shall take office at the next regularly scheduled Tribal Council meeting after the irregularity is resolved pursuant to the terms of this Election Ordinance.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the 22nd day of November, 2003 with a quorum present, the General Council took action and duly adopted this Ordinance by a vote of 58 for, 0 opposed, and 2 abstentions by General Council Resolution 2003-3.


Allen Foreman
Chairman
The Klamath Tribes


Torina Case
Secretary
The Klamath Tribes

