



Delaware Tribe of Indians Election Regulations

Approved by: Tribal Council & Trust Board

Date: June 2, 2014

Purpose

The purpose of these regulations is to conduct any called Delaware Tribe of Indians election pursuant to and in accordance with the Delaware Tribe of Indians Constitution.

Authority

The Delaware Tribal Council has the power to establish rules to regulate its own proceedings, to appoint subordinate committees, commissions, and boards in accordance with the Delaware Tribe of Indians Constitution.¹

Election Date

Elections shall be held every second year on the first Saturday of November pursuant to the Delaware Tribe of Indians Constitution.²

Eligibility

Voter Eligibility

The right to vote is limited to persons who are:

Delaware Tribe members, eighteen (18) years or older, who are registered to vote, can vote in all elections³

¹ Delaware Tribe of Indians Constitution (2008) Article V. Section M

² Delaware Tribe of Indians Constitution (2008) Article VI. Section 1

³ Delaware Tribe of Indians Constitution (2008) Article VI. Section 6

Tribal members voting in the November 2013 election shall be considered to be absentee voters and will receive an absentee ballot in all subsequent elections unless they fail to vote in three (3) consecutive elections.

All eligible voters not voting in the November 2013 election will be required to request an Absentee ballot. Once requesting an absentee ballot, unless they fail to vote in three (3) consecutive elections, they will continue to receive an absentee ballot.

Candidate Eligibility

The right to be a candidate is limited to persons who are:

A member of the Delaware Tribe of Indians⁴ who have reached their eighteenth birthday on or before the date of filing; and is an eligible voter.

An otherwise eligible candidate has been removed from office for cause while serving in an elected position, he/she is ineligible to run for office for a period of five years from time of removal.

Candidate Filing Requirements

Each candidate shall file a Declaration of Candidacy. The Declaration of Candidacy shall include: Candidate's Full Name, Address, Phone Number, and e-mail address (if available) for publication and Delaware registration number for enrollment verification.

The filing period shall be August 1st thru September 1st for regular elections.⁵ For special elections, the deadline shall be 60 days prior to the election.

Notice of Election

Public notice shall be given at least thirty (30) days and not more than forty-five (45) days prior to the date of election to designate the polling place(s) and times in accordance with the Delaware Tribe of Indians Constitution.⁶

Notice shall be given through the United States Postal Service to all members of the Delaware Tribe of Indians eligible to vote and public notice posted.

Election Board

The Chairperson of the Election Board shall be selected and approved by the Tribal Council and Trust Board.

⁴ Delaware Tribe of Indians Constitution (2008) Article II

⁵ Delaware Tribe of Indians Constitution (2008) Article VI, Section 1

⁶ Delaware Tribe of Indians Constitution (2008) Article VI, Section 6

The Election Board Chairperson shall select election board members and present their name(s) to the Tribal Council and Trust Board for approval.

The Election Board shall elect from its membership by majority vote, a vice-chair and a secretary.

If any Election Board member, for any reason, cannot perform their duties for the Election, the Election Board Chairperson may replace the member.

The Election Board shall perform the following certifications:

To determine that each person offering to vote is on the official voting list.

To ensure that only one ballot is cast by each qualified voter and the qualified voter signs his/her name and current address on the official voting list.

To certify that all ballots received are signed and dated by the registered voter. Voters should provide full name including maiden name and any previous names that may have been used by the voter on the tribal registration list, date of birth and Delaware registration number. This information must be consistent with the Delaware Tribal Registration record.

To certify that all self-certification statements are signed by the registered voter.

To certify that no write-in candidates are allowed on the ballots.

To keep ballots, including the ones from the Post Office, locked at all times except when the ballots are being counted.

To count the ballots cast and make a tally there of after the polls have closed.

To make a certified election return and send it to the Bureau of Indian Affairs Muskogee Area Office and post a copy for the certified election return at the Delaware Tribal Center(s).

To preserve spoiled and/or mutilated ballots.

To secure all ballots and related material and to label it with the name of voting place and the date of the election for a period of not less than two (2) years immediately following the election.

Election Board members shall arrive at the polling place at a time designated by the Election Board Chairperson on Election Day. They shall remain on the premises of the polling place until all ballots are counted and the election results have been certified, unless the Chairperson moves the Board to an alternate location.

No member of the Election Board shall leave the polling place during the voting hours and/or counting hours without the permission of the Election Board Chairperson.

Candidate Rights

All candidates in any Delaware Tribe of Indians election shall be afforded the right to purchase a list of electronic media. Said list, shall clearly show all registered voters, less “lost” Delaware. The list will include a designation indicating those members actually voting in the most recent election(s) (See Election Regulations – Voter Eligibility).

Each candidate may name one person to act as a watcher at the voting place and counting place. The watcher is to be commissioned in writing by the candidate prior to the election date. The same watcher shall be allowed to watch the calling and recording of the result of the vote. The watcher shall receive no compensation for their services and shall have no further authority than to note or record any objections to the voting and counting procedures.

The watcher must register with the Election Board upon arrival at the voting place. The watcher must register with Election Board prior to the closing of the polls.

The watcher must remain on the premises of the voting place and counting place until the count is completed. The area where the counting takes place shall be locked before the count begins and no Election Board member or watcher shall leave or enter the premises until the count is complete.

Voting Place(s)

Voting place(s) shall be provided by public notice for tribal members choosing to vote in person or for those who opt to bring their ballots in rather than mail them.

Prior to the election, tribal voters are responsible to ensure the Delaware Tribe of Indians Enrollment Department has their current address.

Ballots

The Election Board shall issue the official ballots. A record shall be maintained of all ballots issued, including the name and address of the voter and date the ballot was issued.

Manner of Voting

Voting shall be by secret ballot. All member of the Delaware Tribe of Indians registered to vote may choose to vote in person at a designated polling place or by absentee ballot via the U.S. Mail.

In Person Voting

Any registered voter opting to vote in person, must appear at a prescribed voting place, announce to the Election Board his/her name and current address, provide a photo I.D. as proof of identification, sign the voter registration list, and place their marked ballot in the ballot box.

Any person offering to vote who cannot read or write or who is physically impaired may be assisted, upon request, by a family member and two (2) members of the Election Board.

Absentee Voting

Absentee ballots must be returned through the U.S. Postal Service to the Delaware Election Board's P.O. Box no later than the close of business the day before the election.

Ballots must be marked and sealed in the inner envelope provided marked "ballot." The "ballot" envelope must be placed in the self-addressed envelope provided with the self-certification information on the back.

All required information on the back of the self-addressed, self-certification envelope must be completed and accurate or the envelope will not be opened or counted.

Ballots containing votes for more candidates than there are seat vacancies, or illegible or mutilated shall be void and not counted.

Election Day

Election Board members shall arrive at the voting place at time designated by the Election Board Chairperson. They shall remain on duty throughout the day until all votes have been counted and certified.

Candidate watchers, once registered with the Election Board, will remain on duty throughout the day until all votes have been counted and certified.

Election Board members, candidate(s) watchers and security guard, if one is hired, will be locked in the counting room or building once the count has begun. No other person shall be allowed in the counting room or building during the count.

All ballots from remote polling place(s) and/or U.S. Post Office shall be transported by the Election Board Chairperson, an Election Board member and the security guard (if one is hired) or by the Chairperson's designee(s).

All ballots cast shall be counted by either electronic tabulation, tallied by the Election Board or its designee. A certified return prepared by the Election Board and signed by the Election Board Chairperson, Election Board members and witnesses, (watchers, security guard) if any present. The tally shall be posted after the tally is complete at the Delaware Tribal Center, 5100 Tuxedo Blvd, Bartlesville, Oklahoma.

Counting Ballots

Unless electronically tabulated, mailed ballots will be opened, certified and counted first. The name of the voter on the self-certification envelope will be checked against the list of ballots mailed and ballots received. Ballot envelopes will be separated from the self-

certification envelopes. Ballots will then be separated from the envelopes in preparation for counting. The self-certification envelopes shall be saved as a permanent record.

The Election Board Chairperson or designee shall call out the votes marked on each ballot, the other Election Board members or designee shall tally the votes separately and count must balance. After the mail-in votes have been counted, the walk-in votes shall be counted using the same procedure.

Campaigning

No person shall campaign within one hundred (100) feet of any voting place.

Winner — Chief

The candidate for chief receiving the highest number of votes shall be declared the winner. In the event of a tie, a run-off election shall be conducted within forty-five (45) days, between the two chief candidates receiving the most votes in the primary election. The winner of the run-off election shall be declared the Chief of the Delaware Tribe of Indians.

Winner — Tribal Council Members

Candidates for the Tribal Council receiving the highest number of votes shall be selected to serve on the Tribal Council. In the event of a tie vote, the candidates who tied or their designee shall draw lots for the position within seventy-two (72) hours of the posting of the election results.

Winner — Chief Justice/Associate Tribal Judges

Chief Justice/Associate Judge candidates receiving the highest number of votes shall be selected to serve on the Tribal Court. In the event of a tie vote, the candidates who tied or their designee shall draw lots for the position within seventy-two (72) hours of the posting of the election results.

Run-off Election

In case of a tie for Chief, a run-off election shall be held within forty-five (45) days of the primary election between the two candidates that received the most votes. Election procedures shall be the same, except only those persons who voted by mail in the primary election shall be allowed to vote by mail in the run-off election. In the event of a run-off election, those persons who voted in the primary election shall automatically receive a ballot by mail for the run-off election.

Recount

Any candidate for any office may ask for a recount. A fee of \$400.00 shall be charged to the candidate requesting the recount. The time limit for requesting a recount shall be within

seventy-two (72) hours of the closing of the polls. If more than one candidate for an office requests a recount, then they shall have the option to split the cost of the recount evenly or to pay \$400.00 for separate recounts.

Complaint Procedure

Right to a Hearing

A complainant shall be entitled to a hearing before the Delaware Tribal Court, if written request is filed within seventy-two (72) hours of the closing of the polls with the Delaware Election Board Chairperson.

Definitions

Complainant is defined as any enrolled member and registered voter in the Delaware Tribe of Indians whose rights may have been adversely affected by procedures used during any Delaware Tribe of Indians called election.

A complaint is defined as any dispute with the conduct and procedures of any Delaware Tribe of Indians called election or failure to act in accordance with the requirements of the Delaware Tribal Constitution or Tribal Election Regulations.

Prior to the Hearing

The complaint must be presented in writing to the:

Delaware Election Board Chairperson
P.O. Box 1198
Bartlesville, Oklahoma, 74005

During normal working hours within seventy-two (72) hours of the close of the polls. The complaint must include specific reasons for the complaint and the action or relief sought and must include a certified check made out to the Delaware Tribe of Indians Court Clerk in the amount of \$25.00 for filing fee.

Within three (3) working days, the Election Board shall forward the complaint, along with the check, to the Delaware Tribal Court.

The Hearing

The hearing shall be held before the Delaware Tribal Court within twenty (20) days of the filing of the complaint.

The complaint shall be afforded a fair hearing providing the basic safeguards of due process, which shall include:

The opportunity to examine, before the hearing, all documents, records and regulations of the Election Board, which are relevant to the hearing. The complainant shall bear all costs of

the copying of these documents. Any documents not made available upon the complainant's request shall not be used by the Election Board to support their actions.

The Delaware Tribal Court may render a decision without proceeding with the hearing if the judges determine that the issue has been previously decided in an earlier proceeding.

If the complainant or the Election Board representative fails to appear at the scheduled hearing, the Delaware Tribal Court may make the determination to post-pone the hearing for a period not to exceed five (5) business days or the Court may make the determination that the party has waived his/her right to a hearing. Both the complainant and the Election Board shall be notified of such determination within ten (10) business days of the Court's decisions.

At the hearing, the complainant must make a showing of entitlement to the relief sought. Once the complainant meets his/her burden by clear and convincing evidence, the Election Board bears the burden of justifying its actions or its failure to act against which the complaint is directed.

The hearing shall be conducted as directed by the Delaware Tribal Court. The Court may receive oral or documentary evidence pertinent to the facts and issues raised by the complainant.

Decision of the Delaware Tribal Court

The decision of the Delaware Tribal Court shall be based solely and exclusively on the facts presented at the hearing.

The Delaware Tribal Court shall prepare a full written decision within ten (10) business days after the hearing. A copy of the decision shall be sent to the complainant, the Election Board and the Tribal Council. Copies shall be maintained in the Election Board files.