

Pawnee Nation of Oklahoma

Election Commission

Election Act



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Prior Revisions Approved by Pawnee Business Council Resolution #18-75 on December 18, 2018; and Resolution #16-125 on December 15, 2016.

The amendments shall be effective as of the date they are enacted.

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Section 1. **Authority:** This Election Act is hereby enacted by the Pawnee Business council under authority delegated by Article IV, Section 4-i, of the Constitution of the Pawnee Nation of Oklahoma.

Section 2. **Purpose:** The Purpose of this Act is to repeal the Pawnee Nation of Oklahoma's Election Act of 2016 and to establish the rules and procedures for conducting election authorized in Article IV, Section 4-i of the Constitution. The intent of the Election Act is to establish procedures for fair elections and to ensure the secrecy and sanctity of the ballot, and to ensure due process is afforded to all persons eligible to vote in the Nation's elections and the candidates. The regulations and procedures contained in this Act will be administered by the Election Commission.

Section 3. **Definitions:**

Business Council – The Pawnee Business Council, the elected governing body of the Pawnee Nation of Oklahoma established by Article IV, of the Tribal Constitution.

Call an Election - The Election Commission's official act of determining an election date and publishing an Election Notice as defined in this Section 3.

Conduct an Election – The Election Commission's obligation to undertake and manage the duties associated with carrying out an election, including, but not limited to the preparation to hold an election, calling an election, certification of and challenges to the candidates' eligibility, preparing for absentee voters, certification of election results, conducting recounts, and hearing election result challenges.

Constitution – The Constitution of the Pawnee Nation, as amended June 14, 2008.

Dates of Events – In determining the date of any event pertaining to elections, neither the day of the election nor the day of the event will be counted.

Day – For time limit purposes of conducting an election, days shall be computed as "working or business days," omitting weekends, national and tribal holidays, except for Section 4 - (B) Publication of Election, Section 8 (B) - Requesting Absentee Ballots, and Section 14 – Installment, which shall be computed with calendar days., or as otherwise provided herein.

Election Commission – The Election Commission will be established by the Pawnee Business Council. The Chairman and the Secretary will be appointed to serve for 4 years and all other Commission seats will serve 2 years.

Election Notice – The official notice that an election shall be held on a specific date shall be issued by the Election Commission.

Hold an Election - The election at the polls on a specific date in accordance with an election notice issued by the Election Commission.

Voters List – List of tribal members eligible to vote as provided by the Enrollment office to the Election Commission.

Section 4. Election Officials:

The Pawnee Business Council shall appoint an Election Commission. The Commission will have overall responsibility for the conduct of all “Regular” elections and “Special Elections” in a fair manner.

(A) Election Commission: The Election Commission shall consist of:

Chairman – The Chairman shall be the presiding member and responsible for the overall activities of the Election Commission, including the safekeeping of ballots and ballot box(s).

Secretary – The Secretary shall record and maintain accurate minutes of meetings and records pertaining to elections. The Secretary shall certify the authenticity of these records and be responsible for providing all Election Committee certifications except where otherwise provided herein after each Election Committee Meeting.

All meeting records and certified election records shall be filed with the President of the Pawnee Business Council within five (5) working days of each meeting and/or election(s).

Clerk – The Clerk shall assist in conducting elections. The clerk shall keep a separate record of the members voting which shall be cross-checked frequently by the Commission Chairman or his/her designee to ensure the eligibility of the voter.

Sergeant-at-Arms – The Sergeant-at-Arms shall maintain order at the polls and enforce the election laws. The Sergeant-at-Arms shall have these powers from the time the polls open until declaration of all election results are final.

Alternate – The Alternate is required to know and understand all Commissioners’ duties in the case of an absence of a Commissioner and is required to participate in all elections.

- (B) **Publication of Regular Election Notice:** Public notice of the election will be made not less than 60-days prior to the date of regular election of Pawnee Business Council. Notices will be posted at the offices of the Pawnee Nation and sites designated by the Election Commission. The Pawnee Chief, the Chaticks si Chaticks Newsletter, and the internet will carry the election notice as a public service announcement. Notifications for a specially called election shall be made in accordance with the Pawnee Nation Constitution.
- (C) **Election Supplies:** The Election Commission shall arrange for delivery of election supplies.
- (D) **Rulings of Eligibility of Candidates:** The Election Commission shall have the authority to rule upon the eligibility of the candidates, and their decision will be final. (See Section 13, A.)
- (E) **Candidate Forum:** The Election Commission will not directly oversee the coordination of a candidate forum but will coordinate with another entity or organization to conduct and host the forum for candidates. The Commission will include the date for the candidate forum on the "Schedule of Events".

Section 5. Voter Qualifications:

- (A) **Resident Voters:** Any member of the Pawnee Nation who is eighteen (18) years of age or over on the date of the election.
 - i. **Voter identification:** a government issued identification card including, but not limited to Tribal ID, Military ID, passport, etc.
- (B) **Absentee Voters:** Any member of the Pawnee Nation who is eighteen (18) years of age or over on the date of the election who expects to be absent from the polling place on the day of election. (see Section 8, Absentee Voting)
 - i. **Voter identification -** a government issued identification card including, but not limited to Tribal ID, Military ID, passport, etc.

Section 6. Ballots:

- (A) **Form of Ballot:** Ballots shall be designed by the Election Commission.

- i. **Challenged Ballots:** All Challenged ballots shall be clearly marked on the ballot as “Challenged”
 - ii. **Spoiled Ballots:** All spoiled ballots shall be clearly marked on the ballot as “Spoiled”.
 - iii. **Paper:** Resident Voter ballots shall be on secure paper. Electronic ballots will be in PDF Format.
 - iv. **Absentee Ballot:** Shall be on secure paper and clearly marked ABSENTEE BALLOT and printed on different color paper than the Resident Voter ballot.
 - v. **Electronic Ballot:** RESERVED for future modification.
- (B) **Number of Ballots:** Ballots will be supplied by the Election Commission in sufficient quantity to ensure each voter is provided with a ballot.
- i. **Numbering:** Each ballot shall be numbered starting with the number 101.
- (C) **Delivery and Receipt of Ballots:** The Chairman of the Election Commission shall have all election materials delivered to the polling place. The Clerk shall be responsible for all election materials as provided in Section 2 of this Act.
- (D) **Ballot Box:** The Ballot box(es) shall be secured with a lock and key. The key to the lock shall be given to the Chairman of the Election Commission at the polling place(s). The Chairman must be accompanied by at least one other Commissioner and/or Tribal Law Enforcement if a ballot box is accessed at any given time.

Section 7. Voters List:

- (A) On the day of election, the Clerk of the Election Commission will maintain the official list of all eligible voters at the polling site for official use only.
- (B) For any petition requesting a specially called election, the Enrollment Office shall certify that the persons whose names appear on the petition are eligible voters.

(C) Voter Registration: RESERVED for future modification.

Section 8. Absentee Voting: In accordance with the Pawnee Nation Constitution, Absentee Ballots shall be issued for all elections.

(A) Basis for providing Absentee Ballots: Whenever a qualified voter expects to be absent for any reason, he/she can request an absentee ballot for the election provided in Section 8 (B).

(B) Requesting and Issuing Absentee Ballots: All requests for absentee ballots shall be made in writing and received by the Election Commission at the following address, Pawnee Nation Election Commission, PO Box 600, Pawnee, Oklahoma 74058, or via fax or email, no less than twenty-one (21) calendar days before Election Day. Upon receipt of a valid request, the Election Commission shall forward to the voter all necessary forms to be used in the pending election. Any absentee ballots postmarked by election day and received within two (2) business days of election day, will be counted.

The Election Commission Clerk shall maintain a file of all requests. The file shall consist of the date, name, and address of all persons mailed absentee ballots. Each ballot shall be marked "Absentee Ballot" and the date of issuance.

After issuance of the absentee ballot, the Election Commission shall list each person sent an absentee ballot, and that individual shall not be allowed to vote at the polling place for the election unless Section 10 Special Circumstances applies.

(C) Execution and Return of Ballots and Certification: The voter shall mark his/her ballot and tear off the numbered stub and handle as indicated below:

- i.** Fold the ballot and place in the provided inner envelope.
- ii.** The voter shall sign the certification.
- iii.** The pre-addressed envelope shall be mailed to the Election Commission, to meet the noon Deadline on the Election Day.
- iv.** Absentee Ballots: Absentee ballots shall remain in a locked box at the Pawnee Nation Headquarters until 1:00 pm on the day of the election. The Election Commission Clerk, escorted by Pawnee

Nation Law Enforcement, shall transport the locked absentee box to the election site to the Election Commission.

- (D) NO ABSENTEE BALLOTS SHALL BE SUBMITTED OR RECEIVED OTHER THAN PROVIDED FOR IN THIS SECTION, WHICH IS VIA U.S. POSTAL SERVICE, UPS OR FEDEX. (NOTE: Absentee ballots cannot be hand carried to a polling place).
- (E) In a Pawnee Nation election, a person who is not the spouse, not related to the voter within the second degree by affinity (brother or sister-in-law, father or mother-in-law, son or daughter-in-law) or not related within the third degree by consanguinity (spouse, children, parents, siblings, grandchildren, great grandchildren, grandparents, aunts and uncles, nieces and nephews), or was not physically living in the same dwelling as the voter at the time of the event is prohibited from:
 - i. Requesting an absentee ballot on behalf of the voter,
 - ii. Receiving by mail or in person an absentee ballot on behalf of the voter,
 - iii. Transmitting, submitting, or mailing a completed absentee ballot on behalf of the voter.
- (F) Assistance rendered to absentee voters is limited to that authorized by this code at a polling place in accordance with Section 9 (F)(i).
- (G) If an absentee voter is assisted in violation of this Section, that voter's ballot shall not be counted.
- (H) A person who knowingly violates Sections 8 or 9 of this Act is deemed to have committed a criminal offense and is punishable by a fine up to \$5,000.
- (I) Any Pawnee voter may enforce this Act by a civil cause of action in the Pawnee District Court. A prevailing voter shall be awarded reasonable attorney's fees and costs.

Section 9. Duties of Poll Officials and Voters:

The duties of the Chairman, Secretary, and Clerk shall be as follows:

- (A) The Chairman shall be in charge of the polling place(s) and responsible for the availability of voting booths.
- (B) The election officials shall be present at the polling place(s) on Election Day from 8:00 am to 7:00 pm and until the tally has been recorded and

reported. The empty ballot box(es) shall be locked and remain locked until time to count the ballots.

- (C) Each voter states their name to the clerk and signs the official list of eligible voters. The election officials shall then determine the voter's eligibility and issue a ballot.
- (D) Upon receipt of a ballot the voter shall go to a voting booth and mark his/her ballot. Only one person shall occupy a voting booth at one time except as provided in Section 9 (F).
- (E) The voter shall mark his/her ballot with an X or checkmark next to a candidate's name and deposit the ballot into the ballot box before leaving the polling place. A mark, to be valid must be identifiable with the appropriate square or place on the ballot. After the ballot is marked, the voter shall tear off the stub and deposit the folded ballot in the ballot box.
- (F) When a voter presents for a ballot and states that he/she, because of physical disability or infirmity, is unable to mark their ballot, one of the election officials shall have the voter swear to the following:
 - "Do you solemnly swear or affirm that you are unable to mark your ballot for voting because of physical disability or infirmity?"
 - i. Should the voter qualify himself/herself, two polling place officials shall give the voter the assistance he/she needs. The voter must state, without suggestion from the officials, the way they wish to vote. In no instances shall an election official by word, action, or expression, attempt to influence the voter as to how he/she should vote.
- (G) Any person waiting in line to vote at closing time shall be permitted to vote, but those presenting themselves after the hour for closing of the polls shall not be permitted to vote. The Sergeant-at-Arms will monitor and enforce.

Section 10. Handling Special Circumstances:

- (A) **Spoiled Ballot:** In the event a voter marks his/her ballot in error in the process of voting and presents it as such to Election Officials, the ballot shall be considered spoiled and void. A replacement ballot shall be issued to the voter and the Commission shall mark on the stub of the spoiled ballot "SPOILED".

- (B) **Challenged Ballot:** A voter, who has been assigned to an absentee ballot and checks in at the polling place shall be issued a “Challenged Ballot” that shall be stamped “Challenged” on the stub and ballot. The Challenged ballot must be kept separate from other ballots and are not included in the tabulation until after the voter’s eligibility is confirmed by the Election Commission.

The challenged ballot shall be placed in a special “Challenged Ballot” box immediately after the voter has cast his/her vote. The Election Commission shall verify that the issued absentee ballot has not been returned as set forth in Section 11 and the challenged ballot shall be counted.

- (C) **Alternates for Polling Officials:** Should an election official of the polling place become ill or have an unforeseen emergency, the Chairman of the Election Commission shall be notified immediately so that the Alternate may assume the responsibilities of the vacated position.
- (D) **Campaigning and Loitering:** No person shall be allowed to campaign or loiter within one hundred (100) feet of the election site during voting hours. The Sergeant-at-Arms shall maintain order during the election.
- (E) **Ties:** In the event that two or more candidates are tied for a Pawnee Business Council position for which they filed; the Election Commission shall conduct a recount of ballots. ***Should a tie exist at the completion of the recount, a run-off election will be held. (see Section 10 (F)).***
- (F) **Run-Off Elections:** The Election Commission shall supervise the run-off election in the case of a tie, using the rules and procedures followed in the regular election.
- (G) **Death of a Candidate:** In the event of a death of one or more of the candidates after the close of the candidate filing period the Pawnee Nation Election Commission shall: (1) proceed with the remaining candidates if more than one candidate remains or (2) declare the remaining candidate the uncontested winner of the election. If only one candidate remains a refund of the filing fee shall be returned to the next of kin who is financially responsible for funeral expenses.

Section 11. Canvas of Election Results:

The Chairman, Secretary and Clerk shall count and record the votes as soon as the polls close and notify the President of the Pawnee Business Council of the results. All marked, unmarked and Absentee Ballots shall be turned over to the Election Commission Chairman after closing the polls. The Election Commission Chairman shall issue a signed receipt for the ballots and have the ballots locked in the Pawnee Nation Headquarters for two (2) years before being destroyed, where they will be available for inspection under the supervision of the Pawnee Business Council.

- (A) **Poll Watchers:** No candidate shall be a poll watcher. Each candidate is *entitled to choose one person to observe the counting of ballots on their behalf.* In elections to vote on Tribal Questions, the Election Commission may designate two (2) watchers for the side of Tribal Question under consideration. No watcher shall in any way interfere or hinder the election officials in exercising their duties and responsibilities.
- (B) **Counting the Ballots at the Polling Place:** Immediately after closing the polls, the Election Commission shall count the votes cast, in the following manner: As the ballots are opened, the Election Commission Chairman shall verbally announce and display the choice or choices indicated on the ballot. The Secretary, Clerk and poll watchers shall record such information on tally sheets. *The winning candidates for the Pawnee Business Council shall be determined by a plurality vote of all votes cast for each Council seat at the time of the regular election.* Upon completion of the tally, the Election Commission Chairman shall execute a certification of the voting results and post a copy of such notice as identified in Section 4 (B).
- (C) **Preparation for Counting Absentee Ballots:** The Election Commission Clerk and one other Election Commission official shall verify the absentee ballots. Each pre-addressed return envelope shall be opened, and the Election Commission Clerk shall then determine whether the person whose name is signed on the certification is a registered voter and by verifying against the absentee voting list. The sealed inner envelope shall then be dropped into the locked absentee ballot box and remain there until the absentee ballots are counted.
- (D) **Counting Absentee Ballots:** The Chairman of the Election Commission shall open the absentee ballot box and prepare for counting. The inner envelope containing the absentee ballot will now be opened by the Election Commission Chair in the presence of the poll watchers. The counting of the ballots shall be as set forth in Section 11 (B). Storage of inner envelope shall be identified as stated in Section 11.

- (E) **Announcing Results of Election:** Immediately upon completion of the count, the Chairman of the Election Commission shall convey to the Pawnee Business Council President the un-official results of the voting and post at the polling place.
- (F) **Certification of Election Results:** The Election Commission will certify the election results and report all necessary tabulations. This includes, but is not limited to, the total amount of ballots printed, mailed absentee ballots, absentee ballots received and counted, number of spoiled/challenged ballots, total ballots issued, and total ballots counted. The certification will be presented to the office of the Pawnee Business Council President.
- (G) **Return of Election Materials:** The marked ballots, all unused ballots, the tally sheets, and the original Certificate of Results shall be placed in the ballot box(es). The box(es) shall be locked and delivered by the Secretary and Clerk of the Election Commission to the Pawnee Nation Headquarters.
- (H) **Improperly Marked Ballots:** Should any portion of a ballot be miss-marked, it shall not be excluded from the tally, only the part which is correctly executed shall be counted. Any ballot, on which the intent of the voter cannot be determined shall be preserved and filed with the other ballots for safekeeping with the notation placed on the face of the ballot indicating it was not counted.

Section 12. Challenges of Election Results:

- (A) **Request for Recounts:** Any qualified voter of the Nation may at any time within the protest period of three (3) business days of the announcement of the un-official result of an election, file with the Chairman of the Election Commission a challenge for the results of the election and request a recount. The request shall specify the candidate or position on behalf of which the request is being filed.

The request for a recount must be in writing with reason given, signed and accompanied by a \$500.00 recount fee by Cashier's Check or Money Order. The recount fee is non-refundable.

Upon receipt of the request for recount and the recount fee, the Election Commission shall conduct a recount of the votes. Poll watchers are allowed to be present at all recount proceedings. Any challenge(s) not made within the specified time frame provided will not be considered.

- (B) **Protests Not Involving Recounts:** Any qualified voter of the Pawnee Nation may at any time within the protest period of three (3) business days of the announcement of the un-official results of an election, file with the Chairman of the Election Commission a written and signed protest or challenge concerning any aspect of the election. The protest will be accompanied by a non-refundable \$100.00 filing fee (payable by Cashier's Check or Money Order). The Chairman of the Election Board shall respond within one week following the closing of the protest period. All decisions made by the Election Commission on protests are final.
- (C) Any alleged irregularity must result in affecting the outcome of an election by a mathematical certainty of the votes cast to require a new election.

Section 13. **Types of Elections**

(A) **Election of Business Council Members:**

- i. **Election Date:** Regular elections shall be conducted on the first Saturday in May and of each odd numbered year. (Article IV, Section 4, Constitution of the Pawnee Nation of Oklahoma).
- ii. **Term in Office:** The President, Treasurer, and the First and Second Council Members shall be elected to a four (4) year term. The Vice-President, Secretary, and the Third and Fourth Council Members shall be elected to a four (4) year term. (Terms shall be staggered in that sequence).
- iii. **Eligibility:** All members of the Pawnee Nation of Oklahoma who have reached the age of 25 (twenty-five) years, are eligible to file their candidacy for the Pawnee Business Council with the following exceptions:
 1. Those persons previously convicted in a court of competent jurisdiction of a felony; or
 2. Those persons receiving a dishonorable discharge from military service, "See Candidate Form." In accordance with Article IV, Section 4 (iii) of the Pawnee Nation Constitution. (A candidate who served in the military shall produce their DD 214, Discharge Form.) Other

discharge qualification will be eligible for candidacy.

3. Any member of the Pawnee Nation filing for office shall not be eligible if they are indebted to the Pawnee Nation for any amount. (Note: In the event the debt is paid, that member will be eligible to file.)
4. Any candidate who, on the date of filing for office is a member or citizen of another federally recognized Indian tribe or nation is ineligible to run for office. A candidate must, on the date of filing, submit an affidavit or statement under penalty of perjury that he/she is not a member or citizen of another federally recognized Indian tribe or nation. Any candidate that falsifies any information provided to the Election Commission shall be ineligible to run for office.

iv. **Filing for Office:** A qualified person seeking election as a member of the Pawnee Business Council must personally file a written notice, providing two (2) forms of identification, one form of identification must be a photo ID, such as a Pawnee Nation Membership Identification Card, a driver's license or Social Security Card, accompanied by the Application Packet Waivers and a non-refundable Filing Fee of \$300.00 payable by money order or cashier's check with the Election Commission. Eligible candidates can only file for one position. Filing Fees shall be used for election expenses.

v. **Eligibility of Candidates:** The Election Commission shall promptly review all filings for the Pawnee Business Council, whether challenged or not, and confirm the eligibility of each candidate. If the Election Commission determines that a candidate is not eligible, the Election Commission shall notify the candidate that his/her candidacy is being challenged and will provide the reason(s) for the challenge. The candidate shall be required to provide satisfactory proof of eligibility within two (2) business days after notification, or he/she shall be declared ineligible. The Pawnee Nation Election Commission decision on eligibility shall be final, unless contested in Pawnee Nation District Court.

vi. **Challenge of Candidates:** Any voter may challenge the eligibility of any person to be a candidate by filing a written petition with the Election Commission. No specific form of petition shall be required although the petition shall:

1. Clearly indicate the substance of the challenge
2. Specify the name **of the candidate and person making the challenge**
3. Include supporting evidence for the challenge
4. Pay a Non-Refundable \$100.00 filing fee (payable by Cashier's Check or Money Order)

The challenge must be filed within five (5) business days of posting the list of candidates. The Election Commission shall promptly notify the candidates in writing stating the basis for the challenge and the person filing the challenge. The Pawnee Nation Election Commission shall rule on each challenge and each person shall be notified by certified mail of their decision. All decisions can be contested in Pawnee Nation District Court.

vii. **Appeal to Tribal Court:** Any candidate who is aggrieved by an order of the Election Commission on eligibility may appeal that decision to the Pawnee Nation District Court. The court shall use expedient proceedings in the determination of the case(s) prior to the deadline for receipt of request for Absentee Ballots.

(B) Constitutional Amendments

i. Amendments to the Constitution may be proposed by a majority vote of the Pawnee Business Council or by a petition signed by at least fifty (50) of the adult members of the Pawnee Nation of Oklahoma. The Constitution may be amended by a majority vote of the qualified voters of the Pawnee Nation voting in an election called for the purpose by the Secretary of Interior and conducted pursuant to the rules and regulations of the Pawnee Nation. Provided, that at least fifty (50) of those qualified to vote shall cast ballots in such election. The amendment shall become effective when approved by the Secretary of Interior, so long as

such approval is required by Federal Law and ratified by the adult members of the Nation.

- ii. An election proposed under Constitution Article XI (Amendments) shall be held by the Election Commission within sixty (60) business days of the Pawnee Business Council vote to propose, or the receipt of a petition proposing the amendment.
- iii. The Election Commission shall set a date for the election and give public notice.
- iv. The ballot shall allow a vote on at least each Article that is proposed to be amended, added, or deleted.
- v. The Pawnee Business Council resolution or the petition proposing the amendment shall indicate a yes or no vote on any one or more provisions as a group.

(C) Special Elections

- i. An election to fill a vacancy under Article IV shall follow the rules of this section. The Election Commission shall follow other applicable provisions of this Act to the extent practical given the priority of meeting the Constitutional deadline. Matters not addressed in this section are subject to the sole discretion of the Election Commission.
- ii. A Special Election may be held in accordance with this Election Act.
- v. A petition for recall may only be filed by any individual(s) tribal member(s) who pays the filing fee not to exceed fifty percent (50%) of the total cost of the last regular election, in the form of a cashier's check or money order, with the Election Commission. The total cost of the election will be included in the certification of the regular election.

Section 14. Installment:

All those elected in any election shall be installed in their respective offices no sooner than 14 calendar days after the election day. Each candidate elect for each office shall swear and subscribe the following oath of office which shall be administered by a member of the Pawnee Nation Judiciary:

I, [insert name], elected as [insert office] of the Pawnee Business Council on [insert date of election], do solemnly swear to support, defend and uphold the Constitution of the Pawnee Nation. And, further, I solemnly swear to perform the duties of the office to which I was elected, to the best of my ability, to do no harm, take no gift, favor, remuneration or other thing of value, other than that to which I am lawfully entitled, for and in the performance of that duty, So Help Me God!

Section 15. Severability:

If any Chapter, section, provision, or portion of this Act is deemed to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Act shall not be affected and shall remain in full force and effect.

Section 16. Rules of Construction:

Each provision of this Act shall be liberally construed for the benefit of the Pawnee Nation of Oklahoma participating in self-governance and any ambiguity shall be resolved in favor of the Tribe.