

Defending Oneida Tribal Democracy & Voting Rights

OBC Resolution 03-13-02-O says: **“The Oneida Constitution reflects an intent to promote the widest possible participation of Oneida people in their governance, and...the use of [the SEOTS] polling site is likely to increase participation in tribal elections[.]”**

On **October 27, 2013**, GTC rejected a petition to eliminate the SEOTS polling site and voted instead to continue including the SEOTS polling site in Tribal elections.

On **January 7, 2014**, GTC voted to include the election of Oneida Judiciary in the 2014 General Election which would have included the SEOTS polling site.

On **June 16, 2014**, OBC Vice-Chair Melinda Danforth admitted to GTC that she, OBC, and the Judiciary Transition Team screwed up the qualifications for judicial officers and asked GTC to agree to delay the Judiciary election, and GTC allowed the delay.

GTC was never told that allowing that delay meant OBC, the Oneida Election Board (OEB), and the Oneida Law Office (OLO) would try to exclude the SEOTS polling site from the Special Election of the Judiciary despite GTC’s directives and against the Oneida Constitution’s intent for the widest possible participation of Oneida people.

When five GTC members took these matters to the Appeals Commission, the OBC, OEB, and OLO **all fought to continue excluding the SEOTS polling site** rather than just admit that it was wrong for them to try to do so and simply agree to present GTC an amendment to include the SEOTS polling site in all future Tribal elections.

Instead, OBC adopted OBC Resolution 08-28-14-A which claims that the OBC has the ability to make a **“one-time exception** to the conduct of the Special Election [to] include polling sites in Oneida and Milwaukee,” as if voting rights are a gift to GTC.

In other words, OBC, OEB, and OLO are claiming that the Constitution’s intent and GTC’s directive to include the SEOTS polling site in the Judiciary election are somehow subordinate to their ability to exclude the SEOTS polling site on a whim.

How could any Tribal election not affect the governance of the Oneida people?

Why would OBC, OEB, and OLO ever exclude the SEOTS polling site from any election given the Oneida Constitution’s intent and GTC’s expressed political will?

Why wouldn’t OBC, OEB, and OLO simply agree to let GTC vote on the matter rather than claim that they should have the power to make that important decision for GTC?

It’s clear now: GTC must defend its civil and voting rights against the actions of the OBC, OEB, and OLO. The future of the Oneida Tribe depends on it.

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On **August 20, 2014**, five GTC members filed a class action lawsuit to defend Tribal democracy & voting rights against OBC, OEB, and OLO (Docket 14-TC-173), but the Oneida Appeals Commission's Trial Body wrongly dismissed that case on **August 21, 2014**, and wrongfully denied the request by Tribe members for a Declaratory Ruling whether the SEOTS polling site should be included in all Tribal elections.

On **December 18, 2014**, the Appeals Commission's Appellate Body ruled that the Trial Body's inaction was arbitrary & capricious and violated the Indian Civil Rights Act and the Oneida Tribal Constitution, and violated the Oneida Tribe members' right to due process, thereby violating GTC's civil and voting rights as a class.

The Appellate Body remanded the case back to the Trial Body despite the GTC members' motion for recusal of those same hearing officers who had violated GTC's due process & civil rights in the original complaint. The Trial Body refused to recuse themselves during the hearing held on **January 16, 2015**, and a decision by the Trial Body is now supposed to be issued within 30 days of **February 12, 2015**.

On **August 28, 2014**, the petition now before GTC regarding the Judiciary election and other election matters was submitted which seeks the following:

For a GTC Meeting to be held in a timely manner on a Saturday or Sunday starting no later than 1 p.m. to allow for greater membership participation, and that GTC vote whether (1) all Tribal elections include the SEOTS polling site, including the inaugural Judiciary Election as was GTC's intent by voting to include the Judiciary in the 2014 General Election; (2) to nullify any Judiciary Election that excludes the SEOTS polling site that may have occurred before the requested meeting is held; (3) a new Judiciary Caucus be held & that due notices be made in Kalihwisaks & prominent places 10 days prior to that Caucus & the inaugural Judiciary Election; (4) to address other Tribal election issues.

On **September 27, 2014**, a Special Election of the Oneida Judiciary was held despite the pending litigation and the petition submitted by GTC members.

On **September 29, 2014**, a representative of the Oneida Enrollment Department who observed the September 27, 2014, Special Election submitted her concerns in a letter to the OBC & OEB regarding their failures to follow Election Law procedures, including the lack of verification that the Oneida polling site's ballot counting machine was empty and prepared before the polls opened at 7:00 a.m. that day.

Despite the various violations of the Election Law during the Special Election of the Judiciary (see included letter), the OBC certified the Special Election results upon the submission of the OEB's Final Report at the **October 8, 2014**, OBC meeting.

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On **November 17, 2014**, the Wisconsin State Supreme Court held an open hearing on a petition submitted by Oneida Tribal members seeking the dissolution of Wisconsin State Statute 801.54, 'Discretionary Transfer of Civil Actions to Tribal Court.' The Supreme Court is scheduled to hear that petition and conduct a general review of the State's transferral of court cases to Tribal Courts in the autumn of 2015.

In other words, **80% or more** of the Oneida Judiciary's projected caseload could possibly disappear based on the Wisconsin Supreme Court's decisions this year.

What must GTC do to protect its voting rights in all elections going forward?

1. Demand that all Oneida Tribal elections, both General and Special elections, include the Milwaukee SEOTS polling site in keeping with the Constitution's intent.
2. Demand that the rescheduling of any Tribal election must be approved by GTC with a 2/3 (two-thirds) majority hand-counted vote.
3. Demand that a locked ballot box and sealable ballot envelopes be on hand at all times in case of the failure/unavailability of electronic ballot counting machines.
4. Demand that the ballot counting process be video-recorded in the presence of a police officer and that the recording be available upon request by GTC members.
5. Demand that all election results (General and Special) be certified by a 2/3 (two-thirds) majority hand-counted vote of General Tribal Council rather than by the OBC who have an obvious conflict of interest approving their own election results.
6. Demand that GTC maintains and reserves the right to nullify any Tribal election at any time if information comes to light which undermines the integrity of an election as determined by a 2/3 (two-thirds) majority hand-counted vote of GTC.
7. Demand that Election Board members who are immediate family members of candidates for and current members of the Oneida Business Committee, Oneida Judiciary, and the other elected Boards, Committees and Commissions be dismissed from Election Board duties, and that the term "immediate family" be defined in accordance with the Judiciary's Canons of Judicial Conduct, which states:

"the term 'immediate family' shall be defined as husband, wife, mother, father, son, daughter, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, brother-in-law, sister-in-law, first or second cousin, step-parent, or someone who is recognized by the Oneida General Tribal Council and/or its delegate as a member of the Judge's extended family." [For example, the nephew-/niece-in-law of a judicial officer.]

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September 29, 2014

Tina Danforth, Tribal Chairwoman

Melinda Danforth, Tribal Vice-Chairwoman

Lisa Summers, Tribal Secretary

Melinda Danforth, Election Vice-Chairwoman

Michelle Doxtator, Election Chairwoman

Dear Representatives:

I worked the Special Election on Saturday, September 27, 2014 as a representative of the Oneida Enrollment Department. In all good conscience, I feel compelled to report this election did not follow established procedures according to the Election Law. It all started with the electronic ballot counting machine. As I recall, someone on the election committee (I don't recall who) asked if myself, Cynthia Niesen and Officer Lyle Metoxen could come into the voting area and validate that the voting box was empty.

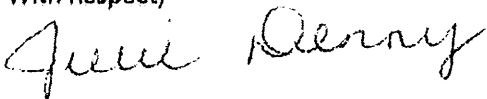
I went outside as Officer, Lyle Metoxen was in his squad car and I informed Lyle the Election Committee is requesting our presence to validate the election box is empty; Lyle looked at his watch and made the comment "this should have been done over an hour ago".

The three of us proceeded into the voting area and here is my recollection:

1. It was approximately 8:03 am when I verified the electronic ballot counting machine was empty.
2. I can honestly say the ballot box was indeed empty.
3. The tape was presented for my signature. Never was I instructed by the Judge to review that ballot counting machine printer tape to see if it had a zero total count, (this is cited in Section 2.9 Election Process, 2.9-3 (a)) . I never looked for that information on the tape as I didn't know I had to.
4. Also, according to the Election Law in Section 2.9 Election Process, 2.9-3 that ballot box shall be prepared prior to 7am on the day of election.
5. Despite signing that ballot machine printer tape, I did not feel comfortable doing it simply because it was at least an hour after the polls had already been opened and numerous voters had already casted their votes.
6. I could verify the voting box was indeed empty but that leaves a question in my mind to where did the ballots go that were cast between 7am-8am?

I bring this to your attention, because I believe processes were not followed and their needs to be accountability for such an important event. If you have any further questions, please feel free to contact me at 920-869-6212 (w).

With Respect,



Julie Denny, Estate Claim Assistant

Cc: Cheryl Skolaski, Enrollment Director