

ELECTION COMMISSION HEARING PROCEDURES

SECTION I – MISCELLANEOUS

- 1.1 These Election Commission Hearing Procedures (“Procedures”) are applicable to a hearing called pursuant to 10.121(2)(d).
- 1.2 These Procedures are intended to be minimally burdensome so as to enable parties to present their case to the Election Commission with as little procedural formality as is reasonably possible.
- 1.3 Upon the request of a party and upon an affirmative vote of the Election Commission the Chair may waive procedural matters herein where the imposition of the given procedure would impose undo hardship upon a party where the hardship is not the result of the requesting parties’ own actions.

SECTION II – HEARING PROCEDURES

2.1 General Procedures:

- a. The Chair of the Election Commission shall convene the hearing at the designated time, date and place and shall schedule an additional meeting for the Election Commission should additional deliberations on the findings become necessary. The Chair will ensure that a collegial atmosphere prevails and enforce time limits, as necessary, for the presentation of arguments. During the hearing, parties to the hearing shall have an opportunity to state their case, present evidence, designate witnesses, ask questions and present a rebuttal. The procedures shall be recorded pursuant to Tribal Code Chapter 10. The Hearing shall be open to the Tribal Membership to attend.
- b. If the Election Commission deem it necessary to protect the confidentiality of the hearing’s information, the Election Commission may limit attendance at the hearing to the complainant, the respondent, witnesses for either party. The Election Commission may confer with the Elections Attorney to determine when this may be necessary.
- c. Witnesses called by either party shall be excluded from the proceedings except when testifying. Witnesses must confine their testimony to their own independent recollection and may not speak for others. The Election Commission may limit the number of witnesses.
- d. Each party may have an attorney appear on their behalf to present their case.
- e. To assure orderly questioning, the Chair of the Election Commission must recognize individuals before they speak. All parties have the right to speak without interruption. Each party has the right to question the other party and to rebut any oral or written statements submitted to the Election Commission. The Chair of the Election Commission shall enforce announced time limits on each party to present its case and, if necessary, extend equal time to each party.

f. The burden of proof for all matters is “preponderance of the evidence.”

2.2 The hearing will proceed as follows:

- a. The Chair introduces members of the Election Commission, the complainant, the respondent and attorneys, if any. The Chair reviews the hearing procedures, including time restraints, if any, for presentations by each party and witnesses. All proceeding shall be recorded.
- b. The Chair recognizes the complainant to present without interruption any statements relevant to the complainant’s case, including the redress sought. The Chair then recognizes questions directed at the complainant by the Election Commission and the respondent.
- c. The Chair recognizes the complainant’s witnesses, if any, to present, without interruption, any statement relevant to the complainant’s case. The Chair then recognizes questions directed at the witnesses by the Election Commission and the respondent.
- d. The Chair recognizes the respondent to present without interruption any statements relevant to the respondent’s case. The Chair then recognizes questions directed at the respondent by the Election Commission and the complainant.
- e. The Chair recognizes the respondent’s witnesses, if any, to present, without interruption, any statement relevant to the respondent’s case. The Chair then recognizes questions directed at the witness by the Election Commission and the complainant.
- f. The complainant may refute statements by the respondent and the respondent’s witness, if any, and present a summary statement.
- g. The respondent may refute statements by the complainant and the complainant’s witnesses, if any, and present a summary statement.
- h. The Election Commission may ask questions of any of the participants in the hearing.

2.3 After all evidence has been presented, with full opportunity for explanations, questions, and rebuttal, the Chair of the Election Commission shall excuse all parties to the hearing and convene the Election Commission to determine its findings in a closed executive session. When possible, deliberations should take place directly following the hearing.

SECTION III – DECISIONS

3.1 When a majority of the Election Commission finds based on a preponderance of the evidence that a violation of the Election Ordinance has occurred and that redress is possible it shall render its findings including any imposed fines, penalties or other remedial action in writing. The written finding shall indicate the rationale for the decision and the major elements of evidence.

3.2 When a majority of the board finds, based on a “preponderance of the evidence,” that no violation of Tribal Code Chapter 10: Election Ordinance has occurred it shall render its findings in writing. The written finding shall indicate the rationale for the decision and the major elements of evidence, or lack thereof.

3.3 The written finding shall inform the parties of their right to appeal pursuant to 10.121(8).

3.4 The Chair shall forward copies of the written findings to the parties involved.

SECTION IV – RECONSIDERATION

If new evidence should arise, either party to a hearing may request the Election Commission to reconsider the case within 30 days upon receipt of the written finding. The written request for reconsideration is to be sent to the Chair of the Election Commission, who shall promptly convene the Election Commission pursuant to 10.121(1) and (2) to review the new material and render a decision on a new hearing pursuant to 10.121(2)(d).