

a registered voter, allowing him or her to vote when polling sites are required by the amendment and adoption article of the tribe's governing document.

*Recognized governing body* means the tribe's governing body recognized by the Bureau for the purposes of government-to-government relations.

*Registered Voter* means an eligible voter who has registered to vote in the Secretarial election.

*Registered Voters List* means the list of all Registered Voters showing only names and, where applicable, voting districts.

*Registration* means the process by which an eligible voter signs up to vote in the Secretarial election.

*Revocation* means that act whereby the registered voters of a tribe vote to revoke their current governing document.

*Secretarial election* means a Federal election conducted by the Secretary under a Federal statute or tribal governing document under this part.

*Secretarial Election Board* means the body of officials appointed by the Bureau and the tribe (and the spokesperson for petitioners, as applicable) to conduct the Secretarial election.

*Secretary* means the Secretary of the Interior or his or her authorized representative.

*Spoiled ballot* means the ballot is mismarked, mutilated, rendered impossible to determine the voter's intent, or marked so as to violate the secrecy of the ballot.

*Spokesperson for the petitioners or spokesperson* means a tribal member who provides a document signed by other tribal members that provides him or her authority to speak or submit a petition on their behalf.

*Tribal request* means a request that includes all of the components set out in 81.6.

*Tribe* means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that is listed in the FEDERAL REGISTER under 25 U.S.C. 479a–1(a), as recognized and receiving services from the Bureau of Indian Affairs.

*Voting district* means a geographic area established to facilitate the voting process, if required, by the amendment and adoption articles of the tribe's governing document.

### Subpart C—Provisions Applicable to All Secretarial Elections

#### §81.5 What informal review is available to a tribe or petitioner when anticipating adopting or amending a governing document?

A tribe that plans to adopt or amend a governing document or a spokesperson for a petitioner may, but is not required to, submit the proposed document with a request for informal review to the Local Bureau Official.

(a) During the informal review:

(1) Bureau personnel will help the tribal government or petitioner spokesperson in drafting governing documents, bylaws, charters, amendments and revocations, explain the Secretarial election process, and provide guidance on methods for voter education, such as informational meetings.

(2) The Local Bureau Official will review the proposed document and will offer technical assistance and comments to the tribe or petitioner spokesperson, including but not limited to guidance on whether any of the provisions of the proposed document or amendment may be contrary to applicable laws.

(b) The Bureau will provide technical assistance for a petition only upon request of the spokesperson. Bureau personnel will provide a courtesy copy to the tribe's governing body of all correspondence regarding technical assistance to the petitioners. The spokesperson will be responsible for obtaining the approval of the tribal members it represents on changes to the content of the petition.

#### §81.6 How is a Secretarial election requested?

To request a Secretarial election:

(a) The tribe or petitioner must submit:

(1) A duly adopted tribal resolution, tribal ordinance, other appropriate tribal document requesting the Secretary to call a Secretarial election, or, in the absence of an existing governing document or if authorized or required by the existing governing documents, a petition that has been verified by the Bureau as having the minimum

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number of required signatures of tribal members; and

(2) The exact document or amended language to be voted on; and

(b) The tribe must submit a list in an electronically sortable format with names, last known addresses, dates of birth, and voting district, if any, of all tribal members who:

(1) Will be 18 years of age or older within 120 days of the date of the request; and

(2) Meet any other voting restrictions imposed by the tribe's governing document for voting in the Secretarial election.

**§ 81.7 What technical assistance will the Bureau provide after receiving a request for election?**

After receiving a tribal request for election under § 81.6, the Bureau will provide the following technical assistance.

(a) The Local Bureau Official will review and make a recommendation on the proposed document or amendment, prepare background information on the tribe, and submit to the Authorizing Official.

(b) The Authorizing Official must do all of the following:

(1) Review the proposed document or amendment and offer technical assistance to the tribe (and spokesperson, for petitions);

(2) Consult with the Office of the Solicitor to determine whether any of the provisions of the proposed document or amendment may be contrary to applicable law; and

(3) Notify the tribe (and spokesperson, for petitions) in writing of the results of the review.

(i) If the review finds that a provision is or may be contrary to applicable law, the notification must explain how the provision may be contrary to applicable law and list changes to the document that would be required to allow the Authorizing Official to approve the document as not contrary to applicable law.

(ii) The notification must be sent to the tribe (and spokesperson, for petitions) promptly but in no case less than 30 days before calling the election.

(iii) For IRA elections, the tribe may choose to proceed with the election without incorporating required changes, but the Authorizing Official may not approve election results ratifying provisions that are contrary to applicable law.

(iv) For OIWA elections, the Authorizing Official may not authorize a Secretarial election on any proposed document that contains provisions that may be contrary to applicable law.

**§ 81.8 What happens if a governing Federal statute and this part disagree?**

If a conflict appears to exist between this part and a specific requirement of the Federal statute, this part must be interpreted to conform to the statute.

**§ 81.9 Will the Secretary give deference to the Tribe's interpretation of its own documents?**

The Secretary will give deference to the tribe's reasonable interpretation of the amendment and adoption articles of the tribe's governing documents. The Secretary retains authority, however, to interpret tribal law when necessary to carry out the government-to-government relationship with the tribe or when a provision, result, or interpretation may be contrary to Federal law.

**§ 81.10 Who may cast a vote in a Secretarial election?**

If the tribe:	Then the following individuals may cast a vote:
(a) Is reorganizing under Federal statute for the first time..	Any member of the tribe who: (1) Will be 18 years of age or older on the date of the Secretarial election; and (2) Has duly registered, regardless of residence or other qualifications contained in the tribe's governing documents or charter
(b) Is already reorganized under Federal statute..	Any member of the tribe who: (1) Will be 18 years of age or older on the date of the Secretarial election; and (2) Otherwise meets the qualifications required by the tribe's governing documents or charter for that particular type of Secretarial election; and (3) Has duly registered.